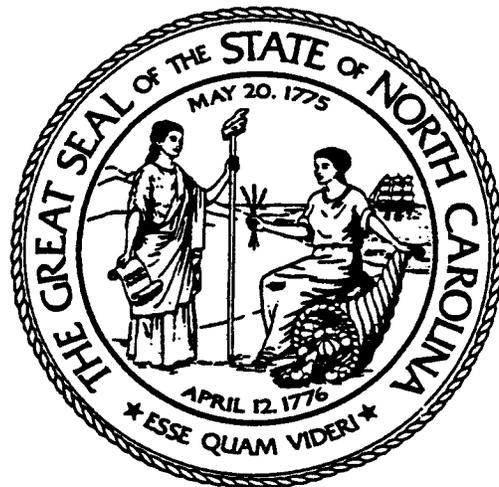


# ELECTION LAWS REVIEW COMMISSION



## REPORT TO THE 1995 GENERAL ASSEMBLY OF NORTH CAROLINA

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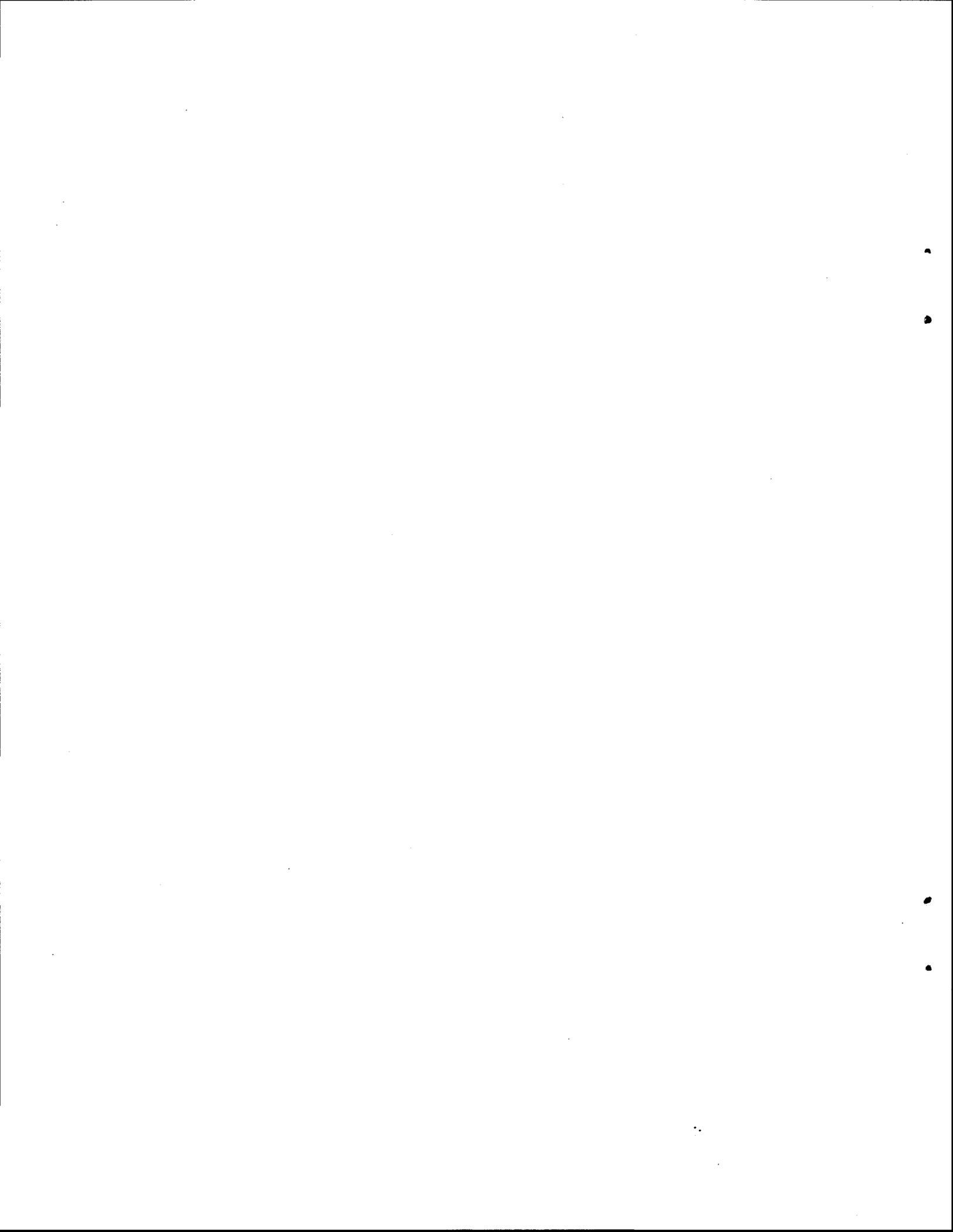
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NORTH CAROLINA GENERAL ASSEMBLY

January 24, 1995

TO THE MEMBERS OF THE 1995 GENERAL ASSEMBLY:

The Election Laws Review Commission herewith submits to you for your consideration its report on the election laws of the State of North Carolina. The report was prepared by the Election Laws Review Commission pursuant to Part III of Chapter 771 of the 1993 Session Laws.

Respectfully submitted,

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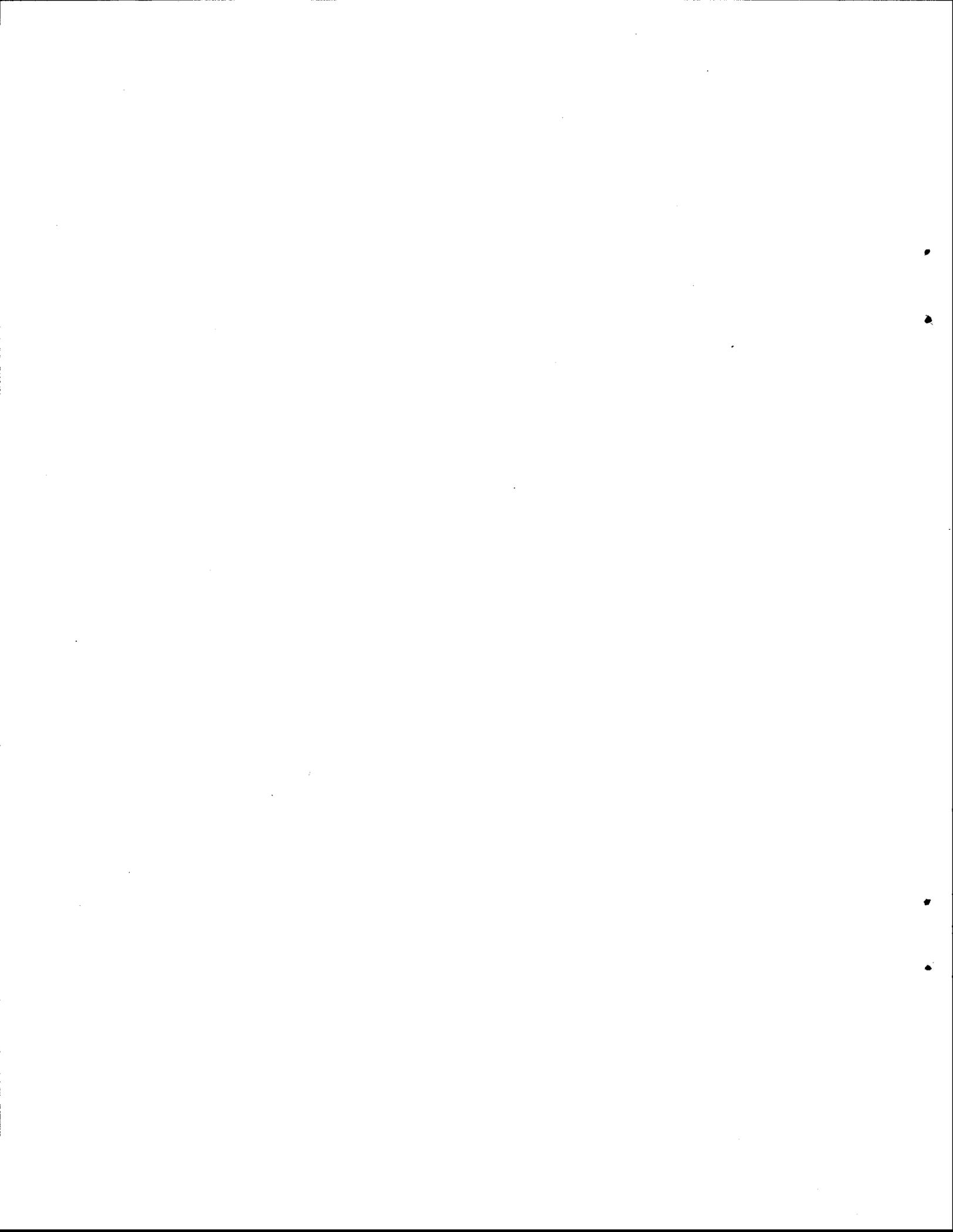
Senator J. Clark Plexico

---

Representative H.M. Michaux, Jr.

Cochairs  
Election Laws Review Commission





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MEMBERSHIP  
1994 - 1995**

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## PREFACE

The Election Laws Review Commission was established by Part III of Chapter 771 of the 1993 Session Laws, the version of House Bill 1319 that was ratified July 16, 1994. (See Appendix A.) The bill contained authorization for several legislative studies.

An earlier version of House Bill 1319, also containing language authorizing an Election Laws Review Commission, had passed both houses of the General Assembly in July 1993. At that time, however, the bill was inadvertently left unsigned and therefore was not ratified. In the absence of legislation creating an independent study commission on the subject, the Legislative Research Commission (LRC) acted after the General Assembly adjourned in 1993 to create a Study Committee under the LRC's aegis to study the same subjects and report to the 1994 Short Session.

That LRC Study Committee conducted a study of the Election Laws and made a report to the LRC on May 23, 1994, recommending five bills. The LRC transmitted that report to the 1994 Short Session of the General Assembly. Two of the recommended bills were enacted during the Short Session, House Bill 1776 (Chapter 762 of the 1993 Session Laws), a rewrite of the Voter Registration Laws to comply with the National Voter Registration Act of 1993, and Senate Bill 1612 (Chapter 744), a clarification that contributions by political committees must be reported with the name of the contributor, even if the contribution is \$100 or less. The other three bills were not enacted.

Copies of the LRC Election Laws Review Committee's 1994 report are available in the Legislative Library, as is a Committee notebook containing Committee minutes and other information presented to the Committee.

Also during the 1994 Short Session, House Bill 1319 was revived from 1993 Long Session, was amended and ratified. The ratified bill established the independent Election Laws Review Commission with essentially the same purposes and in essentially the same form as in the passed-but-unratified 1993 bill. The Speaker of the House, the President Pro Tempore of the Senate, and the Governor were given six appointments each to the Commission. There were to be two Co-Chairs, one appointed by the Speaker and one by the President Pro Tempore. The Commission was given broad authority to study current election laws, policies, and procedures, specifically including campaign finance regulation. It was to recommend changes to clarify current law by removing inconsistencies and outdated provisions, to incorporate desirable uncodified current practices, to conform the State law to court opinions and federal law, and to "recodify the election laws, as necessary, to produce a comprehensive current statement of law and practice of elections in North Carolina."

The LRC Election Laws Review Committee was abolished. The new independent Election Laws Review Commission was directed to report to the 1995 General Assembly on or before the day of its convening, January 25, 1995. Upon filing its report, the independent Commission was to terminate.

Named as Co-Chairs of the independent Election Laws Review Commission were Representative H. M. Michaux, Jr. and Senator J. Clark Plexico. The full membership of the Commission is listed at Page ii of this report.

**A Commission notebook containing the Committee minutes and other information presented to the Committee is filed in the Legislative Library.**

## COMMITTEE PROCEEDINGS

### First Meeting -- November 16, 1994

The Election Laws Review Commission held its first meeting on November 16, 1994 in the Legislative Office Building in Raleigh.

Mr. Gary O. Bartlett, Executive Secretary-Director of the State Board of Elections, reported on the State's progress in complying with the National Voter Registration Act, set to go into effect January 1, 1995. He also reported progress toward the design of a statewide computerized voter registration system. Mr. Bartlett stated a number of needs of his agency, including the need for a complete rewrite of the Election Laws.

Mr. William R. Gilkeson, Counsel to the Commission, reviewed the legislation creating the Commission, including its delayed establishment and the work of the Legislative Research Commission on election law review prior to the 1994 Short Session. (See Preface of this report.) He reviewed the actions of the 1994 Short Session on the LRC Committee's recommendations on compliance with the National Voter Registration Act (NVRA). Mr. Gilkeson pointed out technical corrections that needed to be made to the NVRA compliance legislation. The Commission approved a bill to make those corrections. (See LEGISLATIVE PROPOSAL I at Appendix N.)

Mr. Robert Joyce of the Institute of Government at the University of North Carolina at Chapel Hill, a Co-counsel to the Commission, reported on proposals considered in the 1994 Short Session concerning campaign finance reform, including:

- \* Reporting of all political committee gifts by name (LRC proposal, ratified).
- \* Changing the schedule of filing reports to include a report around Labor Day (LRC proposal, not ratified).
- \* Extending statute of limitations for campaign misdemeanors (LRC proposal, not ratified).
- \* Requiring the reporting of individual donors of more than \$100 by occupation, employer, and business address (LRC proposal, not ratified).
- \* Reducing the contribution limitation from \$4,000 to \$1,000 (Senate amendment, died in House) and to \$500 (proposed in House).
- \* Removing the exemption from reporting for candidates in local elections in counties and cities of under 50,000 in population (Senate amendment, removed in House).

Mr. Gilkeson made brief reports on the way North Carolina's scheme of limiting contributions compares to those elsewhere (See Appendix C) and on public financing and expenditure limitations in North Carolina and elsewhere (See Appendix D).

Mr. Gerry F. Cohen, the Director of Legislative Drafting and also a Co-counsel to the Commission, presented a report on issues concerning absentee voting. (See Appendix B.) The Commission was asked to look over the report and come to some decisions about those issues at the next meeting.

### **Second Meeting -- December 1, 1994**

The Commission held its second meeting on December 1, 1994 in the Legislative Office Building in Raleigh.

The Commission discussed at length the issues of absentee voting reform presented at the previous meeting. The members decided, among other things:

- \* To remove the excuse requirement for most absentee voting, by mail and in person.
- \* To allow the faxing of requests for absentee ballots, but not the faxing of the ballots themselves.
- \* To eliminate the meetings now required of county election boards to approve applications for absentee ballots.
- \* To consolidate and streamline the laws concerning the application process for mail absentee ballots so that in all cases a written request for an absentee ballot triggers the simultaneous mailing of an application and a ballot.

Mr. Cohen was directed to present the Commission's decisions to a meeting later in December of the county election supervisors to get their input. He was to return to the Commission's January 12 meeting with a draft of a bill.

The Commission also heard Co-Chair Plexico read a letter from Henderson County Board member Sally Godehn concerning absentee ballot fraud.

Mr. Gilkeson presented a report answering questions of Commission members concerning negative campaigning. (See Appendix M.)

### **Third Meeting -- January 11, 1995**

The Commission held its third meeting on January 11, 1995 in the auditorium of the State Legislative Building in Raleigh. The meeting was held in the evening so that members of the public could more easily make their views on campaign finance regulation known to Commission members.

More than 100 people attended the meeting. About 20 people spoke, including spokespersons for organizations and individuals speaking for themselves. The most prominent presence at the meeting was the North Carolina Alliance for Democracy, a coalition of groups including Common Cause, the League of Women Voters, the Council of Churches, and the AFL-CIO. (See Alliance mission statement at Appendix F.) Mr. Robert Hall of the Institute for Southern Studies reported on recent data showing the sources of campaign finance in North Carolina. (See Appendix G.) The Alliance then presented two alternative proposals for campaign reform:

- \* The "Democratically Financed Elections" proposal that aims toward near-total public financing of campaigns (See Appendix H); and
- \* The "27-Point Proposal" that relies instead on changes in disclosure, contribution limits, and enforcement as well as public financing (See Appendix I).

Outside the Alliance coalition, United We Stand America presented a proposal that would limit campaign contributions in an election to contributors who can vote in that election. (See Appendix J.)

#### Fourth Meeting -- January 12, 1995

The Commission held its fourth meeting on January 12, 1995 in the State Legislative Building in Raleigh.

Mr. Cohen presented a draft of the absentee-voting bill that had been decided upon at the December 1 meeting, subject to input from election supervisors. Representative Lemmond offered two amendments, both of which were approved:

- \* One to allow county boards of elections to designate additional sites for One-Stop Absentee Voting other than the county board office, but only according to a plan approved by the State Board of Elections; and
- \* One concerning the counting of curbside ballots.

The Commission approved the bill. With a change to allow the counting of One-Stop absentee ballots before the polls close on election day, approved after the January 12 meeting by a poll of the Commission, that bill is LEGISLATIVE PROPOSAL II, which is found at Appendix O.

Mr. Evan Rodewald of the General Assembly's Fiscal Research Division gave a report on questions raised by Commission Member Patricia Watts concerning the funding of public financing of campaigns in North Carolina. (See Appendix E.)

Then the Co-Chairs presented a five-point proposal for campaign-finance reform that included proposals addressing disclosure:

1. Requiring that campaign contributions above \$100 from individuals be reported with the occupation, employer's name, and business mailing address of the contributor (See LEGISLATIVE PROPOSAL III at Appendix P.)
2. Requiring that statewide nonjudicial candidates and legislative candidates file campaign reports around Labor Day (See LEGISLATIVE PROPOSAL IV at Appendix Q.)

and proposals addressing contributions limits:

3. Eliminating the exemption of a candidate's family members from the \$4,000 contribution limit in giving to that candidate (See LEGISLATIVE PROPOSAL V at Appendix R.)
4. Eliminating the exemption from the \$4,000 limit for giving by a party executive committee (See LEGISLATIVE PROPOSAL VI at Appendix S.)
5. Eliminating the extra \$4,000 a candidate may receive from a donor for a second primary even if the candidate is not on the ballot for a second primary (See LEGISLATIVE PROPOSAL VII at Appendix T.)

The Commission debated the proposals. The Co-Chairs announced that they would not be voted on immediately, but that counsel would poll the members by phone to determine what to put in the draft report for the next meeting.

Co-Chair Plexico told the Commission that others in the General Assembly were at work on campaign finance reform and that the five proposals were not necessarily the end of what would be considered in the 1995 Session. He offered as "food for thought," but not as a proposal to be voted on, a paper on "Alternatives Ways to Encourage Spending Limits." (See Appendix K.)

The Commission heard but did not act upon a proposal by Mr. Lee Mortimer of the Center for Voting and Democracy to add proportional representation to the menu of options available to cities and counties for choosing their governing boards. (See Appendix L.)

Finally, the Commission agreed to recommending continuation of the study. (See LEGISLATIVE PROPOSAL VIII at Appendix U.)

#### **Fifth Meeting -- January 24, 1995**

The Commission held its fifth and final meeting on January 24, 1995 in the State Legislative Building in Raleigh.

After a report by Counsel that in the telephone poll a majority of the members had voted in favor of all five campaign-finance proposals presented at the January 12, and after further debate, the Commission voted to approve the current report.

After that vote, Co-Chair Michaux recognized Tom Hendrickson, the Chair of the State Democratic Party, and Jack Hawke, the Chair of the State Republican Party, who each spoke in opposition to LEGISLATIVE PROPOSAL VI.

The Commission voted to endorse two additional proposals:

- \* A proposal from Mr. Breece that the General Assembly encourage local boards of education to schedule a teacher workday on the day of the statewide primary and the statewide general elections in even-numbered years.
- \* The local-option proposal that was presented by Mr. Lee Mortimer and is contained at Appendix L.

Upon the filing of this report January 25, the Commission terminated by operation of law.

## FINDINGS AND RECOMMENDATIONS

### Part I -- Voter Registration Cleanup

**FINDING I:** Needed Technical Corrections to NVRA Compliance Legislation. Chapter 762 of the 1993 Session Laws rewrote the Voter Registration laws of North Carolina to comply with the National Voter Registration Act of 1993. This major undertaking, among other things, repealed Article 7 of Chapter 163 and replaced it with Article 7A in an attempt to give the State a comprehensive rather than piecemeal law on voter registration. In the course of making the shift, the bill made several miscitations and dropped several stitches, notably an inadvertent repeal without replacement of the general duty of county commissioners to fund the legal functions of county election boards and an inadvertent repeal without replacement of the authority for the State Board of Elections to adopt rules to comply with federal legislation to give disabled voters access to voting places.

**RECOMMENDATION I:** The Election Laws Review Commission recommends that the 1995 General Assembly enact a technical cleanup bill correcting the miscitations and replacing the provisions that were inadvertently repealed by Chapter 762. (See LEGISLATIVE PROPOSAL I at Appendix N.)

### Part II -- Absentee Voting Reform.

**FINDING II-A:** General Need for Rewrite. The absentee balloting laws in North Carolina have grown up piecemeal. Much that is included in the statutes has been superseded, some does not conform to federal law, some is too complicated, and there have been several legislative reform initiatives about reasons for absentee voting. In order for the election laws to accommodate the changing needs of voters, eliminate existing complicated paperwork and red tape that are required of county boards of elections, reduce the expense of the process of handling each individual request and ballot, enable counties to efficiently handle a greater volume of absentee ballots, and to conform with federal laws, a comprehensive rewrite of the Absentee Voting Laws is needed.

**FINDING II-B:** The Excuse Requirement. Current law requires that, to vote absentee, a voter must either be unable to go to the polls on election day because of sickness or disability, incarceration, or employment in the elections process, or must expect to be absent from the county during the entire time the polls are open. The excuse requirement is utterly unenforcable, based as it is on the voter's stated expectation of where she will be on election day. Removing the excuse requirement would provide a scrupulously honest voter with an opportunity to vote at a more convenient time--an opportunity already available to the voter who is willing

to engage in a small falsehood. The removal of the excuse requirement may increase the number of people who vote absentee by mail and in person, but it is believed that a reduction in the paperwork and formalities of the absentee process will enable election officials to handle the increase.

**FINDING II-C:** Formalities and Paperwork. The absentee ballot process is extremely formalized. Currently, laborious entries are required on applications, envelopes, and registers, and mandatory board meetings held to approve applications. Although presumably erected over time to prevent fraud, the Commission now believes that this edifice of rules serves chiefly to waste the time of election officials. The good that the rules provide in fraud prevention is minor compared to the harm caused by wasted time. Moreover, if removing the excuse requirement brings a major increase in the number of absentee votes, the unnecessary formalities and paperwork may become overwhelming.

**FINDING II-D:** One-Stop Absentee Voting. Currently, One-Stop Absentee Voting provides voters with an opportunity to vote in person at the county board of elections office during a three-business-week period prior to election day. The convenience of One-Stop is an obvious benefit to voters. One-Stop inevitably will become more popular with the removal of the excuse requirement. Two aspects of the current law on One-Stop could impede the realization of its potential:

- \* **HOW** the voting must be done. Currently, One-Stop voters go through the same paperwork as those voting by mail, and ballots must be held in the same envelopes as mail ballots. As long as a way of dealing with challenges to ballots can be preserved, One-Stop votes should be cast as nearly as possible the way votes are cast on election day.
- \* **WHERE** the voting must be done. Currently, counties may allow One-Stop voting only in the county board office. That requirement often is burdensome on the voter and, if use of One-Stop increases, may also become burdensome on the board office and staff. If county boards can guarantee ballot security and protect against double voting, they should be allowed to designate additional sites if they choose.

**FINDING II-E:** Faxing. In recent years facsimile transmissions have gained common acceptance for business and government communication. Faxing can save time and reduce uncertainty, but brings with it costs and perhaps possibilities for fraud. The General Assembly has already considered the use of faxing as part of the absentee application and voting process. During the Persian Gulf War, special arrangements were made for fax voting by military personnel. Consistent with fiscal responsibility and the integrity of the election process, voters should be allowed to fax.

**RECOMMENDATION II:** The Election Laws Review Commission recommends that the 1995 General Assembly enact a complete rewrite of Articles 20 and 21 of Chapter 163 of the General Statutes, the Absentee Ballot Laws, to include:

- \* the elimination of outdated, conflicting, and confusing provisions and provisions that do not conform to federal law;
- \* the abolition of the excuse requirement for absentee voting;
- \* the streamlining of formalities and paperwork for election boards;
- \* changes in One-Stop Voting so that voting can be done more nearly like election-day voting and so that counties have the option of carefully designating additional sites;
- \* allowing the faxing of requests for absentee ballots, but not the ballots themselves.

(See LEGISLATIVE PROPOSAL II at Appendix D.)

### **Part III -- Campaign Finance Regulation**

**FINDING III-A:** Gaps in Disclosure Laws. One of the important functions of campaign finance regulation is simply disclosure. If the people have a clear view of the way money operates in politics, they can decide what they will tolerate. Two weaknesses in North Carolina's campaign finance law may obstruct such a clear view:

- \* N.C. law requires that only name and address be listed in reporting individual contributors of more than \$100. The result is that campaign reports in the Board of Elections often do not reveal what kinds of interests are giving money to candidates. Sometimes, too, organized efforts of interest groups to "bundle" individual contributions go undetected. "Bundling" circumvents the contribution limits for political committees.
- \* N.C. law requires a party nominee for office to have filed a report with the Board of Elections 10 days before the primary (in April or in case of a second primary June), but does not require the nominee to file another report until 10 days before the general election. That leaves a six-month gap in which the public gets no official word about the operation of money in the campaign. Thirty days after a primary, a report is required, but only of candidates who lost the primary.

**FINDING III-B:** Gaps in Contribution Limits. The N.C. General Assembly has decided to limit the impact of big money on politics by setting a \$4,000 limit on the amount one contributor may give to one politician in one election. Primary, second primary, and general election each counts as one "election." The purpose of the \$4,000

contribution limit is undercut by three loopholes in North Carolina's law:

- \* A family member of a candidate (defined as spouse, parent, sister, or brother) may give without limit to that candidate.
- \* A political party executive committee may give, as well as receive, contributions without limit.
- \* A candidate may receive an additional \$4,000 from a single donor for a second primary even if that candidate is not on the ballot in a second primary.

#### RECOMMENDATIONS UNDER PART III:

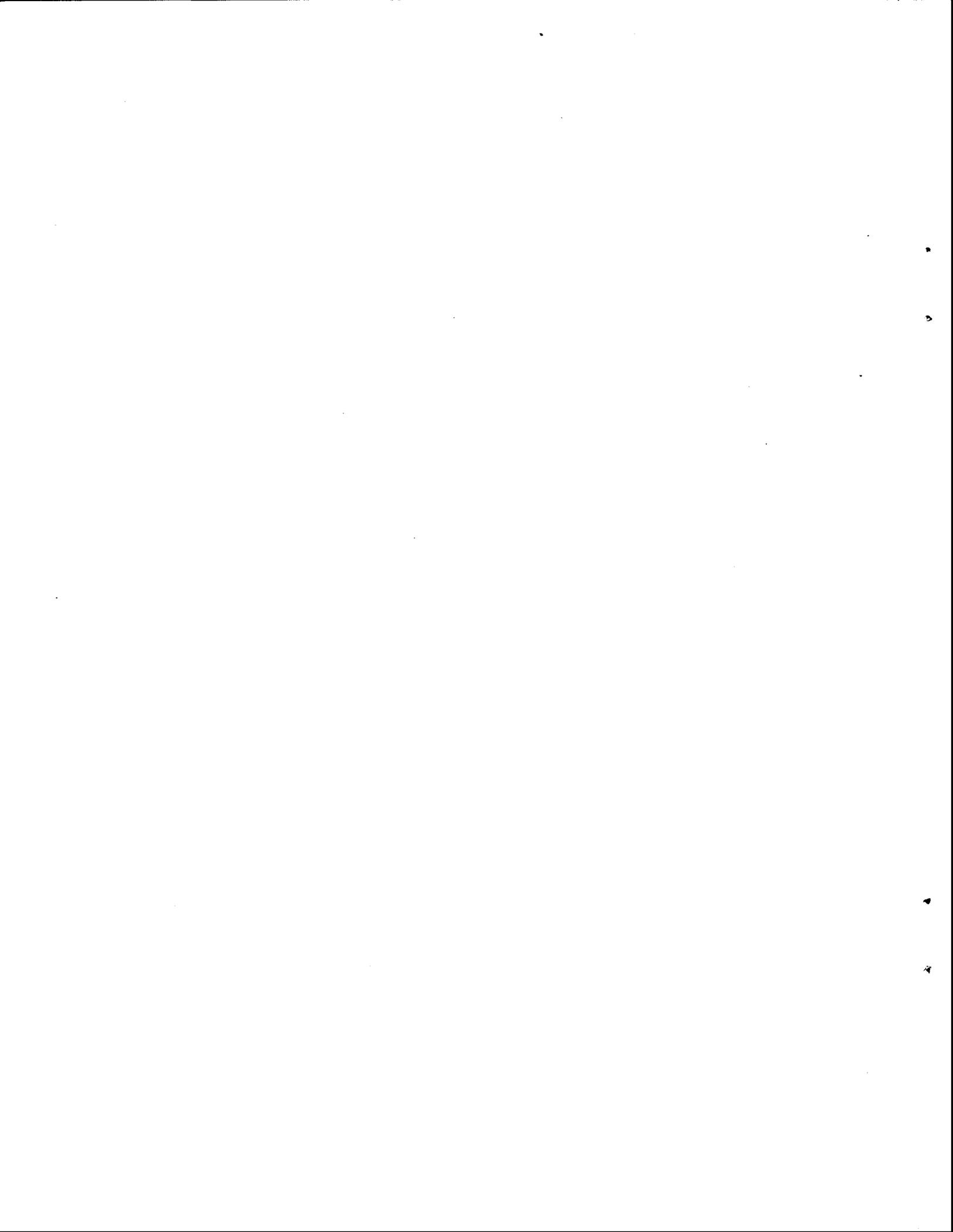
The Election Laws Review Commission recommends that the 1995 General Assembly enact the following:

- \* Report of Donor's Occupation. Following generally the pattern of the federal law for Presidential and congressional candidates, and specifically the wording of the Arkansas campaign statute, the Commission recommends that campaign reports be required to list for each individual contributor of over \$100 the contributor's name, home mailing address, occupation, employer, and business mailing address. (See LEGISLATIVE PROPOSAL III at Appendix P.)
- \* Require Labor Day Report. The Commission recommends that all candidates for statewide nonjudicial office and for the General Assembly be required to file a campaign finance report 60 days before the general election. For candidates for those offices, the current report due 30 days after the primary (and due of primary losers only) would be abolished. (See LEGISLATIVE PROPOSAL IV at Appendix Q.)
- \* Eliminate Family Exemption. The Commission recommends abolishing the exemption from contributions limits of a candidate's family members. (See LEGISLATIVE PROPOSAL V at Appendix R.)
- \* Eliminate Exemption for Contribution by Party. The Commission recommends abolishing the exemption from contribution limits of gifts made by a political party executive committee. Because of political parties' endangered status in today's political environment and the often desperate need of some party organizations for operating funds to survive, the Commission does not recommend abolishing the exemption from contribution limits on gifts to party executive committees. (See LEGISLATIVE PROPOSAL VI at Appendix S.)
- \* Eliminate Extra \$4,000 for Candidates Not in Second Primary. The Commission recommends not allowing a candidate to receive an extra \$4,000 from a contributor for the second primary unless the candidate is on the ballot in a second primary. (See LEGISLATIVE PROPOSAL VI at Appendix T.)

**Part IV -- Continuation of Study**

**FINDING IV:** Both campaign finance regulation in particular and the rest of the election laws in general need continued study.

**RECOMMENDATION IV:** The Commission recommends that the Election Laws Review Commission be re-established. (See LEGISLATIVE PROPOSAL VIII at Appendix U.)



## APPENDIX A

### CHAPTER 771 HOUSE BILL 1319

**AN ACT TO REAUTHORIZE THE MENTAL HEALTH STUDY COMMISSION; TO CREATE THE PUBLIC HEALTH STUDY COMMISSION; TO CREATE THE ELECTION LAWS REVIEW COMMISSION; TO EXTEND STUDY COMMISSION DEADLINES; AND TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY INSURANCE FRAUD.**

#### **PART III.-----ELECTION LAWS REVIEW COMMISSION**

(S.B. 21 - Lee, Basnight)

Sec. 3.1. (a) There is created an Election Laws Review Commission to be composed of 18 members appointed as follows:

- (1) The President Pro Tempore of the Senate shall appoint six members;
- (2) The Speaker of the House of Representatives shall appoint six members; and
- (3) The Governor shall appoint six members.

As used in this Part and unless otherwise clearly indicated, "Commission" shall refer to the Election Laws Review Commission.

(b) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Commission from their appointees. Either cochair may call the first meeting of the Commission.

(c) Members shall serve until the termination of the Commission or, in case of a State legislator member, until the member either does not file for reelection to the General Assembly or is not reelected, whichever occurs first. Vacancies shall be filled in the same manner as the original appointments were made.

Sec. 3.2. (a) The Election Laws Review Commission shall study thoroughly:

- (1) The election laws, policies, and procedures of the State, specifically to include those relating to campaign finance regulation, the appropriateness of their sanctions, and the appropriate handling and disposition of campaign contributions;
- (2) The administration of those laws, policies, and procedures at the State and local levels and the responsibilities of those administering these laws; and
- (3) Federal and State case rulings impinging on these laws, policies, and practices.

(b) The Commission shall recommend changes to the law that will:

- (1) Clarify the present law by removing inconsistencies and outdated provisions, including those of dubious constitutionality;
- (2) Incorporate in the law any desirable uncodified procedures, practices, and rulings of a general nature that have been implemented by the State Board of Elections and its Executive Secretary-Director;
- (3) Conform the law to State and federal case law and to any requirements of federal statutory law and regulation;
- (4) Ensure the efficient and effective administration of elections in this State;
- (5) Continue the impartial, professional administration of elections, which the citizens of the State expect and demand; and
- (6) Recodify the election laws, as necessary, to produce a comprehensive current statement of law and practice of elections in North Carolina.

Sec. 3.3. With the prior approval of the Legislative Services Commission, the Legislative Administrative Officer shall assign professional and clerical staff to assist in the work of the Election Laws Review Commission. Clerical staff shall be furnished to the Commission through the Offices of the House of Representatives and Senate Supervisors of Clerks. The expenses of employment of the clerical staff shall be borne by the Commission. With the prior approval of the Legislative Services Commission, the Election Laws Review Commission may hold its meetings in the State Legislative Building or the Legislative Office Building.

Sec. 3.4. The Commission shall submit a final written report of its findings and recommendations on or before the convening of the 1995 Session of the General Assembly. All reports shall be filed with the President Pro Tempore of the Senate and the Speaker of the House of Representatives, the Principal Clerks of the Senate and the House of Representatives, and the Legislative Librarian. Upon filing its final report, the Commission shall terminate.

Sec. 3.5. Members of the Commission shall be paid per diem, subsistence, and travel allowances as follows:

(1) Commission members who are also members of the General Assembly, at the rate established in G.S. 120-3.1;

(2) Commission members who are officials or employees of the State or local government agencies, at the rate established in G.S. 138-6;

(3) All other Commission members, at the rate established in G.S. 138-5.

Sec. 3.6. The State Board of Elections and its Executive Secretary-Director, local boards of election, and all other State departments and agencies, and local governments and their subdivisions shall cooperate with the Commission and, upon request, shall furnish to the Commission and its staff any information in their possession or available to them.

Sec. 3.7. The Election Laws Review Committee, created by the Legislative Research Commission in 1993, is abolished.

...

#### **PART VII.-----APPROPRIATION FOR STUDIES**

Sec. 7.1. From the appropriations to the General Assembly for studies, the Legislative Services Commission may allocate funds to conduct the studies authorized by Parts II and III of this act.

#### **PART VIII.-----EFFECTIVE DATE**

Sec. 8.1. This act is effective upon ratification. Part II of this act is repealed on June 30, 1995.

In the General Assembly read three times and ratified this the 16th day of July, 1994.

...



# North Carolina General Assembly

Legislative Services Office  
Legislative Office Building  
300 N. Salisbury Street, Raleigh, N. C. 27603-5925

## APPENDIX B

GEORGE R. HALL, Jr., Legislative Administrative Officer  
(919) 733-7044

M. GLENN NEWKIRK, Director Automated Systems Division Suite 400, (919) 733-6834	GERRY F. COHEN, Director Bill Drafting Division Suite 100, (919) 733-6660	THOMAS L. COVINGTON, Director Fiscal Research Division Suite 619, (919) 733-4910	TERRENCE D. SULLIVAN, Director Research Division Suite 545, (919) 733-2578
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August 25, 1994

### MEMORANDUM

**TO:** Interested Parties

**FROM:** Gerry F. Cohen,  
Director of Legislative Drafting

**SUBJECT:** Issues in Absentee Voting Reform

The absentee balloting laws in North Carolina have grown up piecemeal. Much that is included in the statutes has been superceded, some does not conform to federal law, some may be too complicated, and there have been several legislative reform initiatives about reasons for absentee voting.

The Election Laws Review Commission will most likely be considering the absentee ballot laws. The charge to the new commission, authorized by the 1994 short session, is to: "... recommend changes to the law that will:

- (1) Clarify the present law by removing inconsistencies and outdated provisions, including those of dubious constitutionality;
- (2) Incorporate in the law any desirable uncodified procedures, practices, and rulings of a general nature that have been implemented by the State Board of Elections and its Executive Secretary-Director;
- (3) Conform the law to State and federal case law and to any requirements of federal statutory law and regulation;
- (4) Ensure the efficient and effective administration of elections in this State;
- (5) Continue the impartial, professional administration of elections, which the citizens of the State expect and demand; and
- (6) Recodify the election laws, as necessary, to produce a comprehensive current statement of law and practice of elections in North Carolina."



## ABSENTEE BALLOT REFORM ISSUES

1) **SIMULTANEOUS MAIL-OUT CODIFICATION.** The bulk of absentee ballots in this State are issued under G.S. 163-230.1, enacted in 1983, which requires sending out the application and ballot together when the voter personally makes a request by mail. That statute never repealed or specifically amended the many sections that provide for a written request for an application, then the sending out of the official application, then approval by the Board of Elections followed by mail-out of the ballot. This latter procedure survives only when a near-relative makes a request by mail. The statutes need to be rewritten to specifically set out the process under which the bulk of ballots are issued. Consideration can be given also to eliminating the procedure for near relatives to write in for the application, which would still allow near relatives to apply in person, the simultaneous mail-out, and one-stop voting.

2) **SIMPLIFICATION OF PROCESS.** The absentee ballot process is extremely formalized. Currently, laborious entries are required on applications, envelopes, and registers, and mandatory board meetings held to approve applications. Consideration could be given to requiring board meetings only when the validity of an application is challenged, after posting a list of applicants, coupled with perhaps requiring board action on applications coming in near the deadline. This could eliminate many time consuming and expensive board meetings where no fraud is alleged.

3) **CONFORMANCE TO FEDERAL LAW.** Several federal laws have been enacted relating to absentee voting, largely covering those residing overseas or unregistered voters wanting to vote for President. There has never been any formal State compliance legislation, nor even formal rules, although the State appears to be complying in practice. These areas need to be dealt with by statute.

4) **FAXING OF APPLICATIONS AND BALLOTS.** The General Assembly has considered legislation to allow applications and/or ballots to be faxed, for just overseas voters or for all voters.

5) **REASONS FOR ABSENTEE VOTING.** The current law lists several reasons for absentee voting, centering on absence and disability. The General Assembly has considered legislation for so-called "no excuse" absentee voting, where the voter need neither give nor have any specific reason.

6) **MUNICIPAL ABSENTEE VOTING.** Currently, absentee voting is optional for municipalities, largely because of the cost burden on small towns, and is not allowed (except for four towns by local act) for cities which have their elections conducted by municipal boards of elections because of the inexperience of such boards. If the cost can be reduced substantially, should county board run elections have mandatory absentee voting? Should the

current restrictions on municipal boards be kept, assuming municipal boards are retained under the broader election study?

7) **BALLOT SECRECY.** Current law requires the ballot number to be placed on the ballot. This interferes with secrecy, but does allow fraudulent ballots that have been successfully challenged to be removed from the vote count. Should the number be eliminated? (how would the challenge process work then if the challenge is received and not disposed of before vote counting?) Or should the ballot number be changed so as not to be publicly tied back to the particular voter, or made detachable from the ballot??

8) **CONTINUING APPLICATIONS.** Currently, military absentee voters can have their application valid for an entire calendar year. Should this be extended to registered voters?

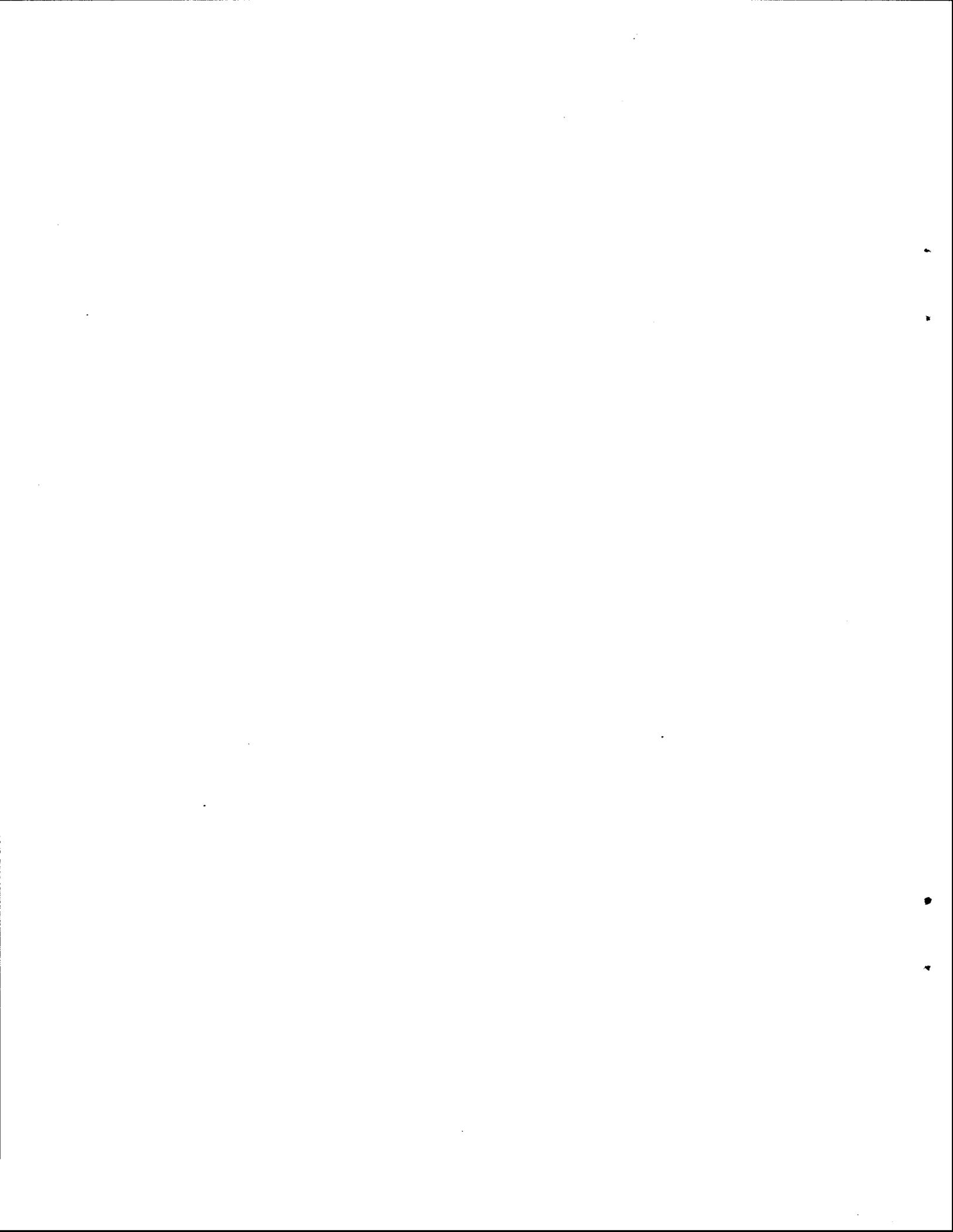
9) **TIME FOR ABSENTEE VOTING.** Are the current cutoffs for mail in and one-stop absentee voting realistic both for election administration and for voters who may be faced with long mail delays? Should they be shortened or lengthened?

10) **COUNTING.** Should the counting process be streamlined? Can it be?

11) **MILITARY ABSENTEES.** Should the military absentee voting law be revised now that voters can register by mail under NVRA? (Military absentees do not have to be registered voters under current NC law).

12) **CHANGE OF STATUS.** G.S. 163-253 and -254 contain confusing provisions about absentee voting when a military voter has been discharged after voting but before the election. These need to be examined, especially since the facts may be unknown to the board of elections. The sections also need to be conformed to the State NVRA implementation act.

13) **OTHER CHANGES.** Election officials, voters, and election law interest groups may identify other issues to be considered in the study.



REGULATION OF POLITICAL CONTRIBUTIONS

William R. Gilkeson, Staff Attorney  
Legislative Services Office  
November 16, 1994

The U.S. Supreme Court in Buckley v. Valeo (1976) set out the following rules of what government (Federal or State) may do under the First Amendment of the U.S. Constitution to regulate money in politics:

1. Government MAY NOT limit how much a candidate may spend to get elected, unless it does so by gaining the candidate's voluntary agreement to limit spending in exchange for some benefit.
2. Government MAY NOT limit how much a person may spend independently on a candidate's behalf. An expenditure is independent if the spender does not consult with the candidate or the candidate's agents.
3. Government MAY, however, limit how much a person may contribute to a candidate.

Other federal caselaw has upheld the authority of government to ban contributions by entities such as corporations.

Congress, in its regulation of Presidential and Congressional campaigns, does the following:

- \* Bans corporate contributions.
- \* Limits contributions by individuals to \$1,000 per election.
- \* Limits contributions by political action committees to \$5,000 per election.
- \* Treats contributions by political parties similarly to PAC contributions.

The North Carolina General Assembly, in its regulation of State and local elections, does the following:

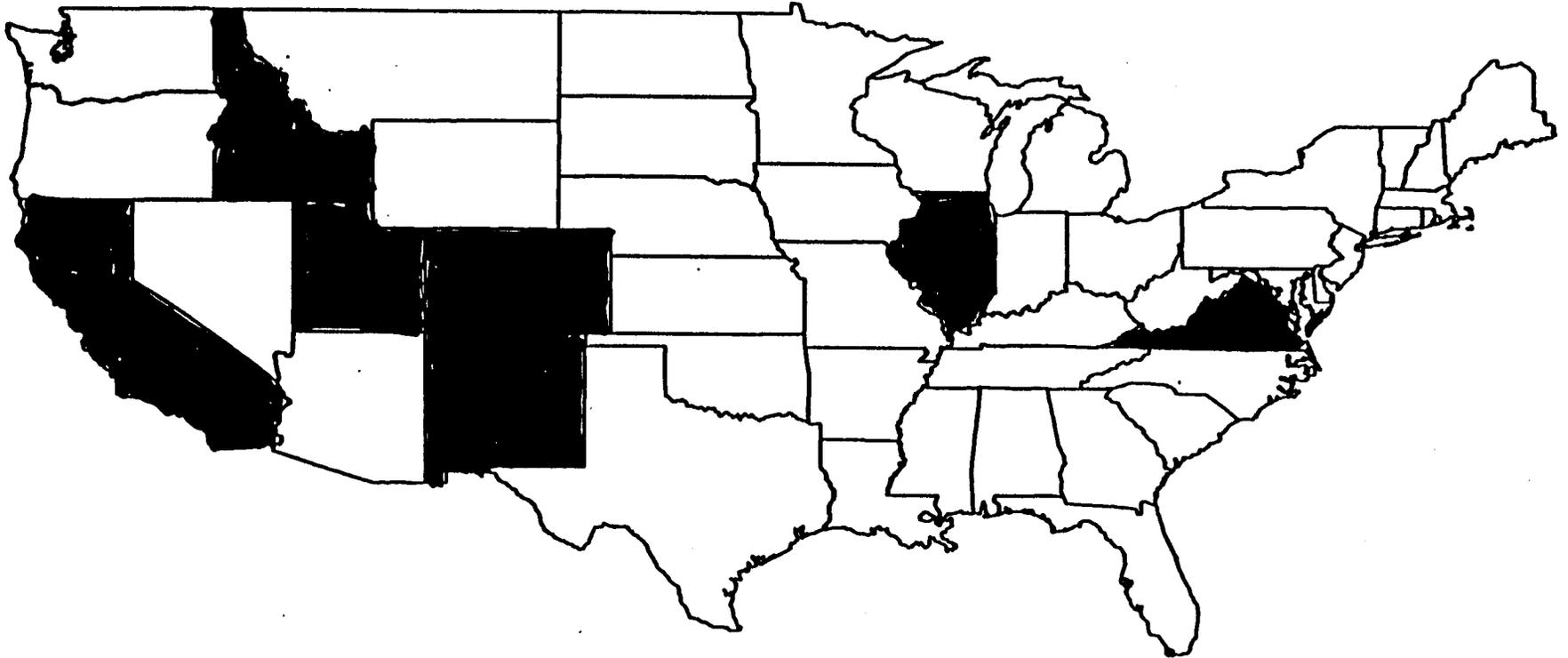
- \* Bans corporate contributions.
- \* Limits all contributions to \$4,000 by any kind of donor to any kind of recipient.
- \* Exempts political parties from contribution limits.

The patterns above are fairly simple. They are not the only ways to regulate giving.

In light of the debate in 1994 about North Carolina's contribution limits, the following charts attempt to provide a survey of how other states regulate (or do not regulate) contributions.

1. How many states have no general limits on campaign contributions? Seven.
2. How many states have a ban on corporate contributions? Twenty.
3. How many states place no limits on contributions by individuals or political committees? Sixteen. (This includes the seven states that do not limit contributions plus nine other states that limit or ban corporate contributions but not individuals or PACs.)
4. Of the 34 states that limit contributions by individuals or PACs, how many have a different limit depending on whether the donor is an individual or PAC? Sixteen.
5. Of the 34 states that limit contributions by individuals or PACs, how many have a different limit depending on what office the recipient is running for? Twenty-three.
6. How many states set an aggregate limit on the amount one donor may give to all offices? Nine.
7. how many states set an aggregate limit on the amount one recipient may receive from all donors of a certain type? Five.
8. How many states limit contributions by political parties? Eleven.

# STATES THAT DO NOT LIMIT CONTRIBUTIONS

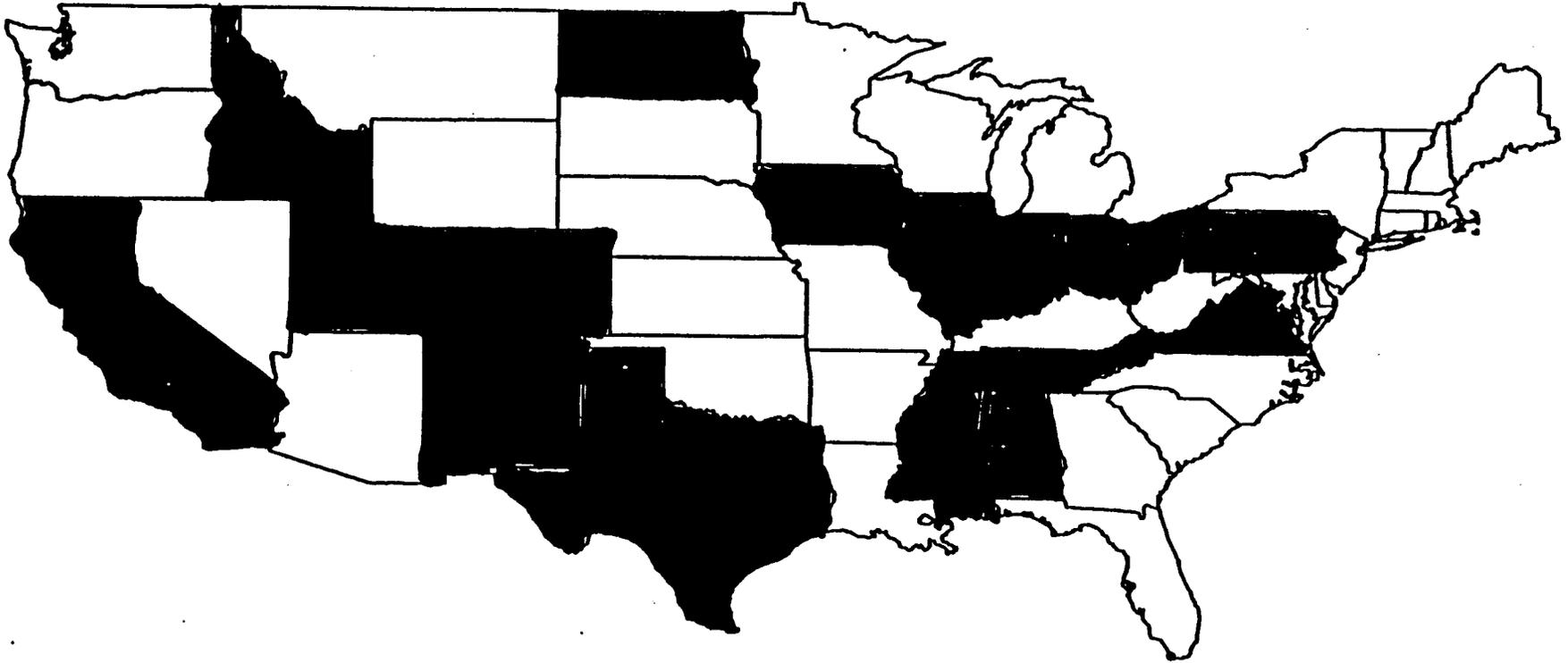


03

QUESTION 1



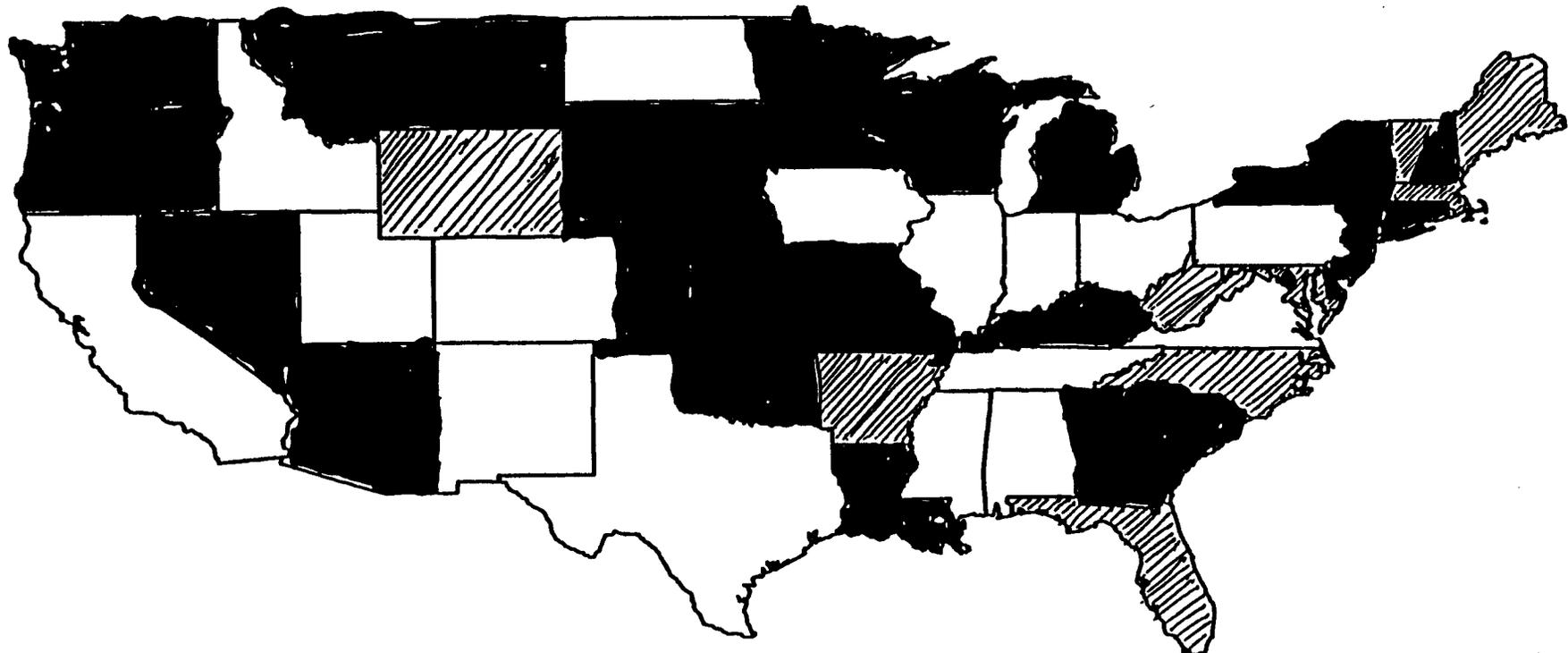
**STATES THAT DO NOT LIMIT CONTRIBUTIONS  
BY INDIVIDUALS OR PACS**



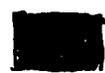
05



# STATES THAT LIMIT CONTRIBUTIONS BY INDIVIDUALS OR PACS



ONE LEVEL OF LIMITS FOR ALL RECIPIENTS



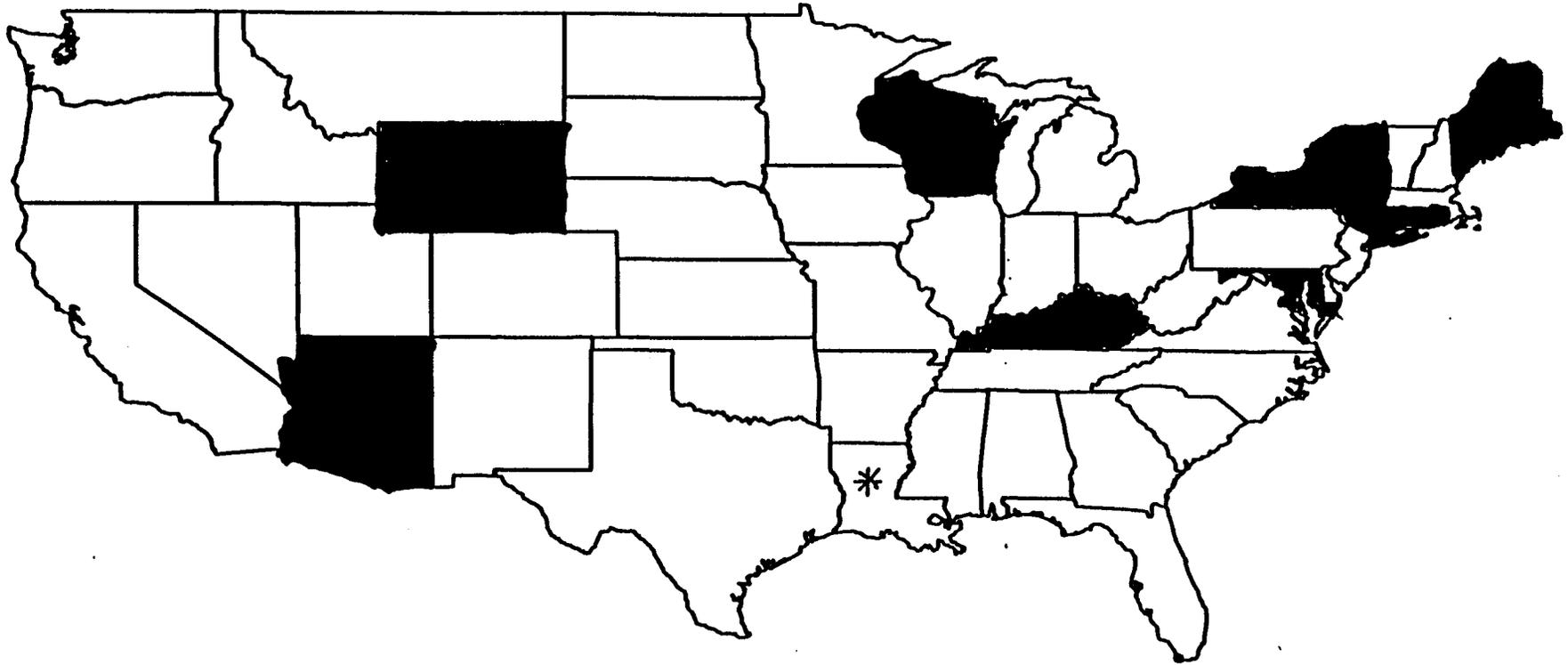
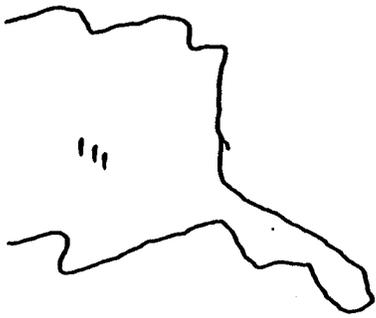
DIFFERENT LEVELS FOR DIFFERENT RECIPIENTS

0-7



QUESTION 5

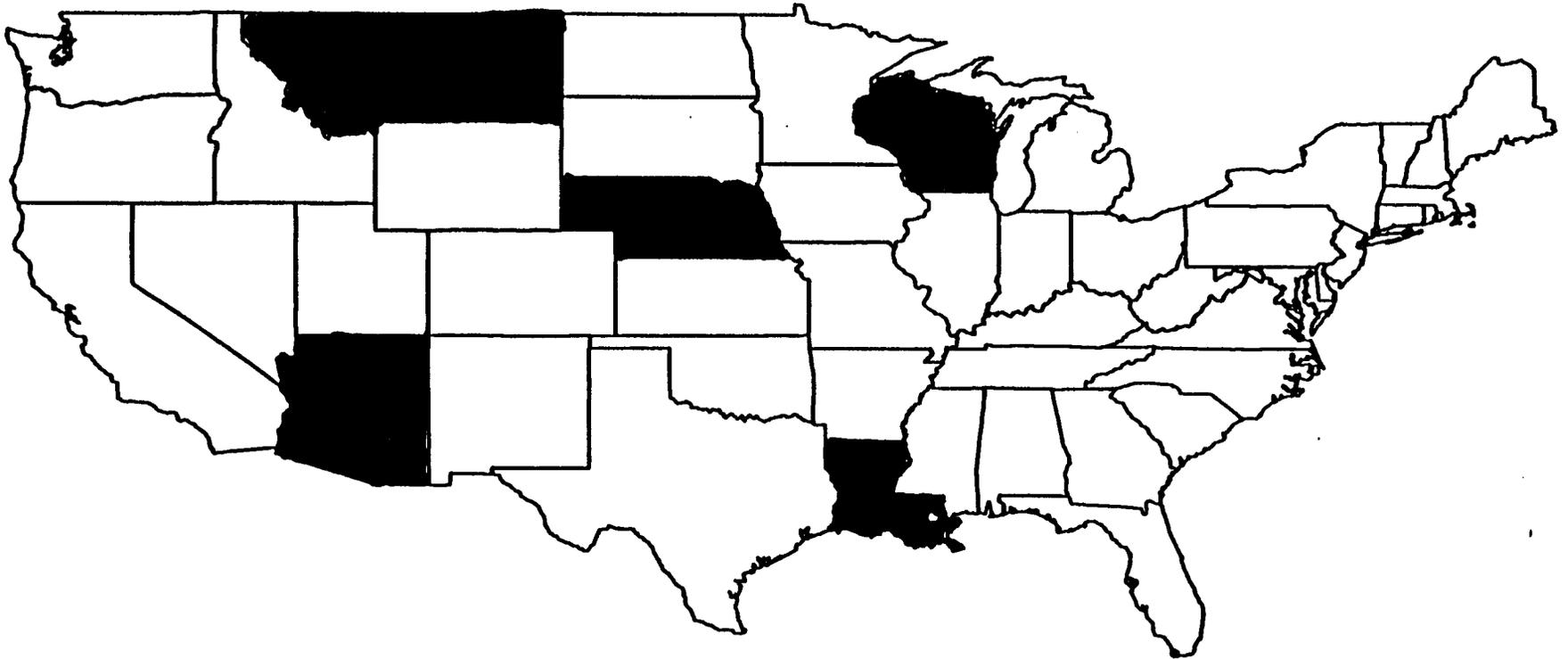
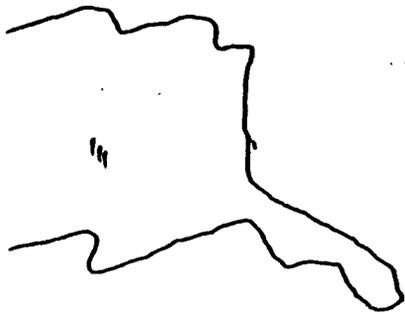
**STATES THAT LIMIT AGGREGATE AMOUNT A DONOR  
MAY GIVE TO ALL RECIPIENTS**



CS



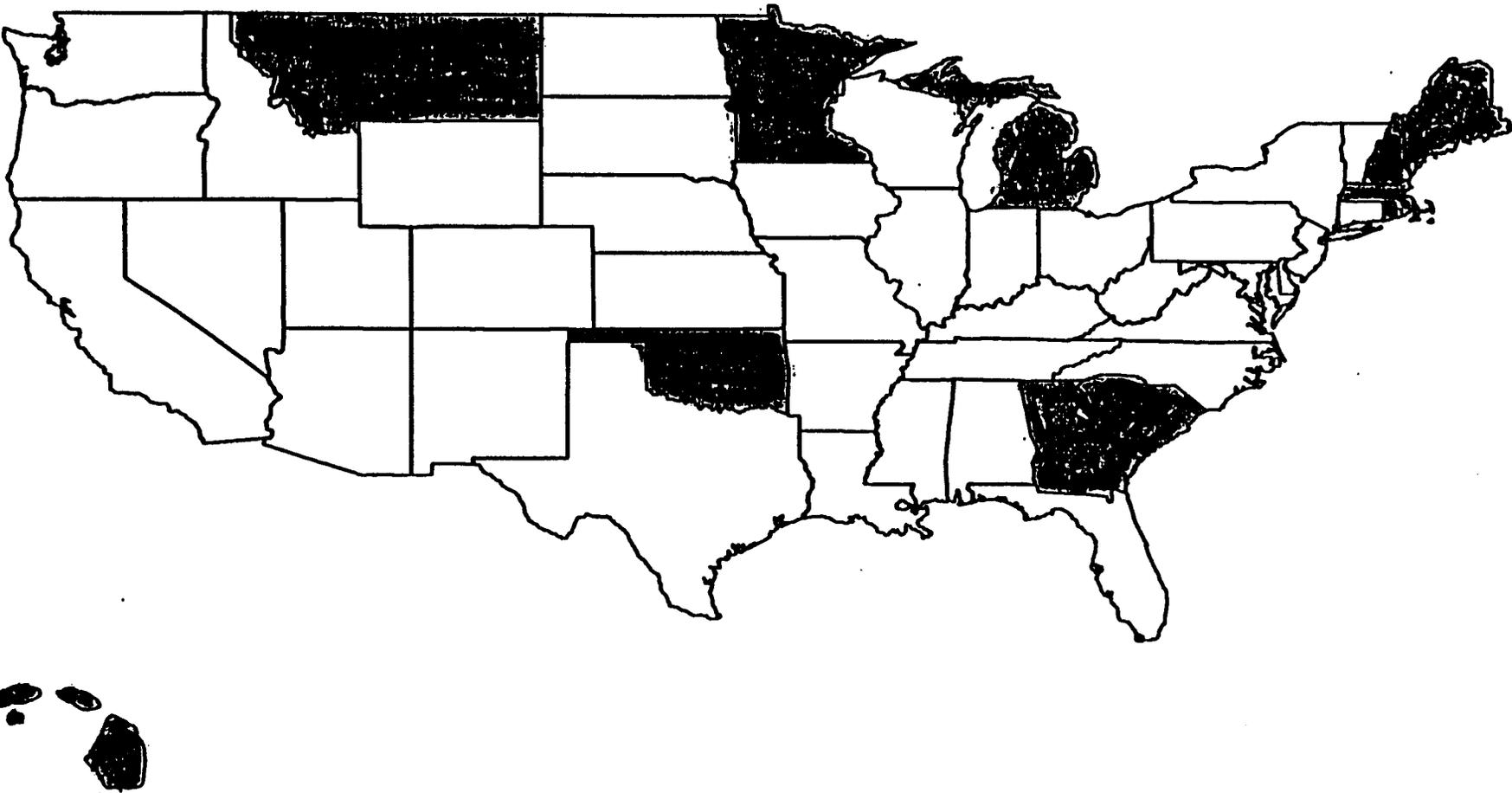
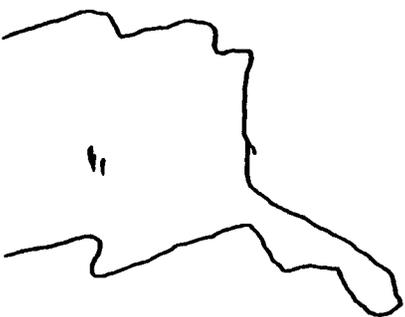
**STATES THAT LIMIT THE AGGREGATE AMOUNT A RECIPIENT  
MAY ACCEPT FROM ALL DONORS OF A CERTAIN TYPE**



69



**STATES THAT LIMIT POLITICAL-PARTY CONTRIBUTIONS**



C-10

AMOUNTS IN STATES WHERE ONE LIMIT FITS ALL RECIPIENTS

ALASKA      \$1,000/year.

ARKANSAS    1,000/year.

FLA.            500/election.

HAWAII       2,000/year.

MAINE        1,000/election for individual.  
              5,000/election for PAC.

MD.            4,000/4-year election cycle for individual.  
              6,000/4-year election cycle for PAC.  
              Maryland limits individual donors to \$10,000/4-year cycle to  
              all recipients combined.

MASS.        1,000/year.

N.C.           4,000/election.

VT.            1,000/election for individual and corporation.  
              3,000/election for PAC.

W. VA.        1,000/election.

WYOM.        1,000/election for individuals.  
              No limits for PACs.

## EXAMPLES OF MULTI-LEVEL LIMITS FOR RECIPIENTS.

ARIZ. For Statewide Candidates:  
\$ 640/election from individuals.  
3,200/election from PACs and corporations.  
For Other Candidates:  
250/election from individuals.  
1,270/election from PACs and corporations.  
Arizona limits individual donors to \$2,000/year to all recipients. It limits candidates for statewide office to \$63,880 from all PACs combined and non-statewide candidates to \$6,390 from all PACs combined. The reason for the odd amounts is that the limits are inflation-indexed.

MINN. For Governor/Lieutenant Governor:  
2,000/election year + 500/off-year.  
For Attorney General:  
1,000/election year + 200/off-year.  
For Other Statewide Offices and State Legislature:  
500/election year + 100/off-year.  
For contributions to PACs:  
100/year.

N.H. For Candidates Who Agree to Limit Campaign Spending:  
5,000/election.  
For Candidates Who Do Not Agree to Limit Spending:  
1,000/election.

S.C. For Statewide Office and for Contributions to PACs:  
3,500/election.  
For Other Office:  
1,000/election.

WISC. For Statewide Office:  
10,000/year from individuals.  
Formula based on office from PACs.  
For State Senate:  
1,000/year.  
For State House:  
500/year.  
For Judgeships:  
3,000 or 2,500 for appellate judge (depending on district population)  
3,000 or 1,000 for trial judge (depending on size of circuit).  
For Local Office:  
The greater of \$250 or one cent per inhabitants, capped at 3,000.  
Wisconsin limits donors to \$10,000/year to all recipients. It limits candidates from accepting more than a formula-determined amount from all PACs combined.

**PUBLIC FINANCING IN NORTH CAROLINA AND ELSEWHERE**

William R. Gilkeson, Staff Attorney  
Legislative Services Office  
November 16, 1994

One of the solutions sometimes proposed to the excesses of money in politics is public financing of political campaigns.

In some cases, public financing is simply used to supplement private contributions; that is common when the public money goes to political parties. In other cases, public financing is given as a benefit to persuade candidates to voluntarily limit their campaign spending. The U.S. Supreme Court in Buckley v. Valeo (1976) prohibited government from limiting what a candidate may spend to get elected, unless that limitation is voluntarily accepted by the candidate in exchange for some kind of public benefit such as public financing of his campaign.

North Carolina has two kinds of public financing:

- \* The Political Parties Financing Fund, supported by a \$1 checkoff on the State Income Tax Return, whereby \$1 of what the taxpayer already owes is given to the Fund. The money is distributed to political parties on the basis of voter registration.
- \* The Candidates Financing Fund, fueled by an "add-on" on the State Income Tax Return, whereby the taxpayer may add to what she already owes, or subtract from her refund, to give to the Fund. Beginning in 1996, the money that has accumulated in the Fund is to be distributed to party nominees for Governor who have agreed to limit their expenditures. The expenditure limitation would be \$1 times the number of votes in the last election for Governor. Money from the Fund would be distributed on a matching basis: \$1 for every dollar raised privately by the nominee after nomination, or raised before nomination but left unspent after nomination. No candidate could receive from the Fund more than half the amount of his expenditure limit.

Since the Candidates Financing Fund was created in 1988, it has generated \$159,311.20. That amounts to about \$26,000 a year. At that rate of growth, the Fund will have about \$212,000 when it is to be distributed to nominees for Governor in 1996. That is unlikely to be enough to give the two party nominees for Governor all the matching grants they would be entitled to. Nor would it be much of a carrot to induce candidates to limit their spending.

The 1995 General Assembly, then, faces a decision about the Candidates Financing Fund:

- \* To leave it alone and let it go into effect in the 1996 Governor's race,
- \* To change its funding source so it will generate more money, or
- \* To abolish it.

According to the Federal Election Commission, 11 states now have public financing for political parties only, and 11 states have public financing for candidates. Of the 11 states that have public financing for candidates, 10 use the money as leverage to induce candidates to agree to spending limits. The one that does not tie public financing to spending limits is Massachusetts, where the source of the fund has been the same tax add-on that North Carolina has and officials felt that not enough money was raised to lure any candidate into spending limits. Massachusetts has just changed its law to go to a tax checkoff for its Fund.

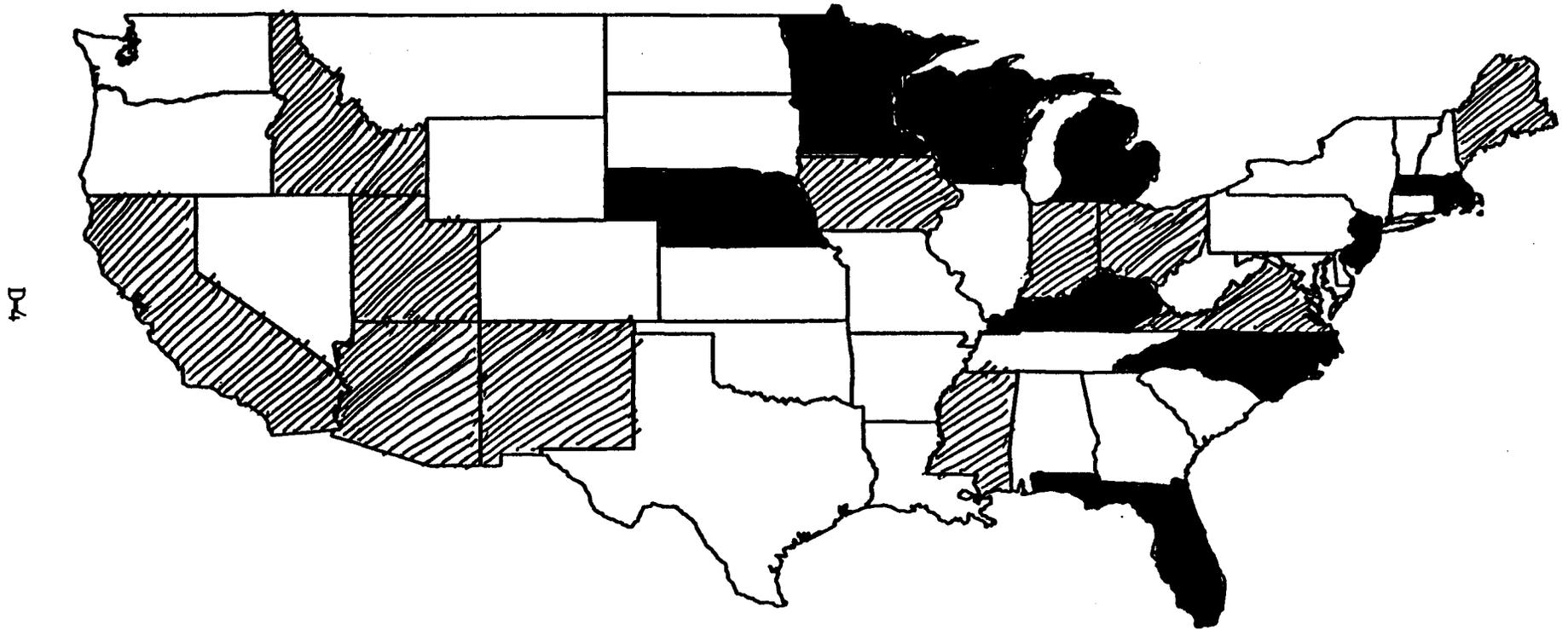
New Hampshire uses another device to persuade candidates to accept spending limits: If a candidate limits spending, she is subject to a \$5,000 per election contribution limit; if not, she is subject to a \$1,000 contribution limit.

The map and chart on the following pages attempt to give a picture of public financing in the states.

STATES WITH PUBLIC FINANCING FOR CANDIDATES

	<u>SOURCE OF FUNDING</u>	<u>OFFICES ELIGIBLE</u>
Florida	Direct appropriation, Candidate filing fees, Assessments on certain gifts to PACs, Motor vehicle, boat license fees.	Governor/Lieutenant-Gov. Statewide Exec. Offices.
Hawaii	Tax checkoff, Direct appropriation.	All candidates for non-federal offices.
Kentucky	Tax checkoff.	General election candidates.
Massachusetts	Tax checkoff. (newly enacted)	Statewide candidates. (primary & general)
Michigan	Tax checkoff.	Governor (primary & general) Lt. Governor (gen. only)
Minnesota	Tax checkoff.	Governor, Lt. Gov., Atty. General, Other Statewide Offices, State Legislators.
Nebraska	Direct appropriation, Tax Add-on from refund,	Statewide Office, Legislature.
New Jersey	Direct appropriation, Tax checkoff.	Governor.
North Carolina	Tax add-on.	Governor.
Rhode Island	Tax checkoff.	Governor, Lt. Gov., Sec. of State, Atty. Gen., Treasurer.
Wisconsin	Tax checkoff.	State Executive Offices, Legislators, Supreme Court.

# PUBLIC FINANCING



D-4



**FOR PARTIES ONLY**



**FOR CANDIDATES**

STATES WITH PUBLIC FINANCING FOR CANDIDATES

	<u>SOURCE OF FUNDING</u>	<u>OFFICES ELIGIBLE</u>
Florida	Direct appropriation, Candidate filing fees, Assessments on certain gifts to PACs, Motor vehicle, boat license fees.	Governor/Lieutenant-Gov. Statewide Exec. Offices.
Hawaii	Tax checkoff, Direct appropriation.	All candidates for non-federal offices.
Kentucky	Tax checkoff.	General election candidates.
Massachusetts	Tax checkoff. (newly enacted)	Statewide candidates. (primary & general)
Michigan	Tax checkoff.	Governor (primary & general) Lt. Governor (gen. only)
Minnesota	Tax checkoff.	Governor, Lt. Gov., Atty. General, Other Statewide Offices, State Legislators.
Nebraska	Direct appropriation, Tax Add-on from refund,	Statewide Office, Legislature.
New Jersey	Direct appropriation, Tax checkoff.	Governor.
North Carolina	Tax add-on.	Governor.
Rhode Island	Tax checkoff.	Governor, Lt. Gov., Sec. of State, Atty. Gen., Treasurer.
Wisconsin	Tax checkoff.	State Executive Offices, Legislators, Supreme Court.

ARTICLE 22C.

*Appropriations from the North Carolina Candidates Financing Fund.*

(This Article is effective January 1, 1996)

§ 163-278.46. (Effective January 1, 1996) Establishment of Candidates Fund; administrative expenses; financing in case of insufficiency.

There is established in the State Treasury a North Carolina Candidates Financing Fund (Candidates Fund) to be administered by the State Board of Elections (State Board) in which shall be placed money contributed by taxpayers as provided in G.S. 105-163.16(f). If the money in the Candidates Fund is insufficient to fully fund qualifying candidates, available money shall be distributed proportionally. (1987 (Reg. Sess., 1988), c. 1063, s. 1; 1991, c. 397, s. 1.)

Editor's Note. — Subsection (f) of § 105-163.16, referred to in this section, was repealed by Session Laws 1991, c. 45, s. 22.

Session Laws 1987 (Reg. Sess., 1988), c. 1063, s. 5, as amended by Session Laws, 1991, c. 397, s. 1, makes this Article effective January 1, 1996.

Session Laws 1987 (Reg. Sess., 1988), c. 1063, s. 4, as amended by Session Laws 1991, c. 397, s. 1, provides: "The Secretary of Revenue, the State Treasurer, and the Executive Secretary-Director of the State Board of Elections shall monitor and evaluate the response of the taxpayers and the growth of the

Candidates Fund and each shall report to the General Assembly by May 15, 1991, and again by May 15, 1993, and again by May 15, 1995. The 1995 General Assembly is urged to review those reports and to determine if enough money has accumulated in the Candidates fund to warrant distribution according to Section 1 of this act. If the 1995 General Assembly determines that an insufficient amount of money has ac-

cumulated to warrant proceeding with Section 1 of this act, the money that has accumulated in the Candidates Fund shall be transferred to the General Fund."

Legal Periodicals. — For article, "Campaign Finance Reform in North Carolina: An Act to Limit Campaign Expenditures and to Strengthen Public Financing of Political Campaigns," see 67 N.C.L. Rev. 1349 (1989).

§ 163-278.47. (Effective January 1, 1996) Application; eligibility.

(a) Application. — Each candidate for Governor who seeks grants from the Candidates Fund shall file an application for the grants with the State Board on forms provided by the State Board. The candidate may file an application after being certified as a party's nominee for the office, but not after June 15.

(b) Notice of Other Applicants. — By June 30, the State Board shall notify each candidate in a contest of all the applications made by candidates in the same contest.

(c) Eligibility. — To be eligible to receive grants from the Candidates Fund, a candidate shall have opposition on the ballot in the general election and shall:

- (1) Agree to abide by the expenditure limits provided in G.S. 163-278.48.
- (2) Raise qualifying matching contributions equal to five percent (5%) of the expenditure limit. "Qualifying matching contributions" are those from political committees or individuals. They are limited to contributions raised after the candidate's certification as nominee, or raised before his certification but left unspent after certification.
- (3) Agree to submit to a postelection audit of the campaign account by the State Board. (1987 (Reg. Sess., 1988), c. 1063, s. 1; 1991, c. 397, s. 1.)

Editor's Note. — Session Laws 1987 (Reg. Sess., 1988), c. 1063, s. 5, as amended by Session Laws 1991, c. 397, s. 1, makes this Article effective January 1, 1996.

Effect of Amendments. — The 1991

amendment, effective June 25, 1991, in the first sentence of subsection (a) of this section as enacted by Session Laws 1987 (Reg. Sess., 1988), c. 1063, s. 1, effective January 1, 1996, substituted "Governor" for "Council of State."

§ 163-278.48. (Effective January 1, 1996) Expenditure limits.

Limitation Formulas. — Any candidate for Governor who requests grants from the Candidates Fund shall limit total expenditures after certification as party nominee as follows: One dollar (\$1.00) times the number of votes cast for Governor in the last general election in which more than one candidate appeared on the ballot for Governor. (1987 (Reg. Sess., 1988), c. 1063, s. 1; 1991, c. 397, s. 1.)

§ 163-278.49 ELECTION LAWS OF NORTH CAROLINA § 163-278.50

**Editor's Note.** — Session Laws 1987 (Reg. Sess., 1988), c. 1063, s. 5, as amended by Session Laws 1991, c. 397, s. 1, makes this Article effective January 1, 1996.

**Effect of Amendments.** — The 1991 amendment, effective June 25, 1991, rewrote this section as enacted by Session Laws 1987 (Reg. Sess., 1988), c. 1063, s. 1, effective January 1, 1996.

§ 163-278.49. (Effective January 1, 1996) Qualified campaign expenditures.

A candidate may use the money received from the Candidates Fund under this Article only to further that candidate's election to office through expenditures allowable under North Carolina law. (1987 (Reg. Sess., 1988), c. 1063, s. 1; 1991, c. 397, s. 1.)

**Editor's Note.** — Session Laws 1987 (Reg. Sess., 1988), c. 1063, s. 5, as amended by Session Laws 1991, c. 397, s. 1, makes this Article effective January 1, 1996.

§ 163-278.50. (Effective January 1, 1996) Distribution of funds.

(a) **Certification and Notice.** — The State Board shall review each request for grants from the Candidates Fund and certify by July 15 before the general election whether the candidate is eligible to receive them. The State Board shall notify the candidate of the certification decision in that candidate's case within seven days after the decision is made.

(b) **Formula for Distribution.** — A candidate certified to receive money from the Candidates Fund shall be entitled to distribution of funds on a one-to-one basis for all qualifying matching contributions as defined in G.S. 163-278.47. No candidate, however, shall receive money from the Candidates Fund in excess of half the amount of that candidate's expenditure limit under G.S. 163-278.48.

(c) **Reporting.** — Certification and distribution of funds shall be based on contributions to the candidate reported pursuant to G.S. 163-278.9 and pursuant to this section. In addition to the reports required in G.S. 163-278.9, a candidate who seeks to receive contributions from the Candidates Fund shall file a report of contributions and expenditures at each of the following times before the general election:

- (1) The second Wednesday in August, and
- (2) The second Wednesday in September.

Those two reports shall be filed on forms prescribed by the State Board. The State Board may prescribe separate forms on which candidates who seek grants from the Candidates Fund shall file the other reports required by G.S. 163-278.9.

(d) **Timetable for Distribution.** — Funds shall be distributed to candidates by September 1 before the general election, based on the August reports required in subsection (c) of this section. Further distribution shall be made within seven days after the filing of each succeeding pre-election contribution report required by this section or by G.S. 163-278.9. (1987 (Reg. Sess., 1988), c. 1063, s. 1; 1991, c. 397, s. 1.)

Editor's Note. — Session Laws 1987 s. 1, makes this Article effective January 1, 1996.  
(Reg. Sess., 1988), c. 1063, s. 5, as  
amended by Session Laws 1991, c. 397,

**§ 163-278.51. (Effective January 1, 1996) Withdrawal of application.**

(a) Regular Deadline for Withdrawal. — A candidate, by written notice to the State Board before July 10, may withdraw application to receive money from the Candidates Fund.

(b) Extended Deadline for Withdrawal. — Notwithstanding the provisions of subsection (a) of this section, if withdrawal by any other candidate or candidates leaves a person as the only candidate in a contest applying for money from the Candidates Fund, that candidate may withdraw by written notice to the State Board before August 22.

(c) Consequences of Withdrawal. — A candidate shall receive no money from the Candidates Fund after that candidate's notice of withdrawal. The candidate will not be subject to the limitations or penalties of this Article if the candidate makes a timely withdrawal.

(d) Vacancies and Replacement Nominees. — If a party nominee who has been certified to receive money from the Candidates Fund dies, resigns, or for any reason becomes ineligible or disqualified before the general election but after the applicable deadline in subsection (a) or (b) of this section, that candidate's application for the Candidates Fund is automatically withdrawn without penalty, but the candidate shall return all money received from the Candidates Fund that is unspent at the time that candidate leaves the race. If the nominee is replaced, the new candidate may either:

- (1) Forego participation in the Candidates Fund; in that case, the new candidate will:
  - a. Not be eligible for any of the money the former candidate received or became entitled to before leaving the race, and
  - b. Not be subject to the expenditure limit, or
- (2) Assume the position of the former candidate with respect to the Candidates Fund; in that case, the new candidate will:
  - a. Be eligible for the unspent money the former candidate returned to the Candidates Fund, and for any money to which the former candidate had become entitled through qualifying matching contributions but had not received before leaving the race, and
  - b. Be eligible for any money from the Fund the new candidate may earn through qualifying matching contributions, and
  - c. Be subject to the remainder of the former candidate's expenditure limit, and
  - d. Be subject to all other requirements for participation in the Candidates Fund that the candidate's late entry into the race do not make inappropriate.

If the new candidate elects to forego the Candidates Fund, any other candidate in the race may withdraw his application within seven days after the new candidate has notified the State Board of a decision to forego the Candidates Fund, if the candidate seeking to withdraw is left as the only publicly funded candidate in the race. A

candidate who withdraws from participation in the Candidates Fund under the circumstances set out in this paragraph must return all money received from the Candidates Fund at the time of withdrawal. (1987 (Reg. Sess., 1988), c. 1063, s. 1; 1991, c. 397, s. 1.)

Editor's Note. — Session Laws 1987 s. 1, makes this Article effective January 1, 1996.  
(Reg. Sess., 1988), c. 1063, s. 5, as amended by Session Laws 1991, c. 397,

**§ 163-278.52. (Effective January 1, 1996) Penalties; fines.**

In addition to any other penalties which may be applicable under this Chapter, any candidate who receives contributions from the Candidates Fund and who exceeds the applicable expenditure limit or falsely reports qualifying matching contributions and thereby receives contributions from the Candidates Fund to which the candidate was not entitled shall be fined an amount equal to the amount at issue plus ten percent (10%). (1987 (Reg. Sess., 1988), c. 1063, s. 1; 1991, c. 397, s. 1.)

Editor's Note. — Session Laws 1987 s. 1, makes this Article effective January 1, 1996.  
(Reg. Sess., 1988), c. 1063, s. 5, as amended by Session Laws 1991, c. 397,

**§ 163-278.53. (Effective January 1, 1996) Criminal punishment.**

Any individual, person, candidate, political committee, or treasurer who willfully and intentionally violates any of the provisions of this Article, shall be guilty of a Class J felony. (1987 (Reg. Sess., 1988), c. 1063, s. 1; 1991, c. 397, s. 1.)

Editor's Note. — Session Laws 1987 s. 1, makes this Article effective January 1, 1996.  
(Reg. Sess., 1988), c. 1063, s. 5, as amended by Session Laws 1991, c. 397,

**§ 163-278.54. (Effective January 1, 1996) Sixty-day post-election report to State Board; audit.**

(a) Maintenance of Records. — The treasurer of each candidate shall keep a complete record of receipts from the Candidates Fund and of all subsequent expenditures and disbursements, substantiated by any records, receipts, and information that the State Director of Elections shall require.

(b) Sixty-day Report. — By 60 days after each general election, the treasurer of each candidate receiving funds from the Candidates Fund in that general election campaign shall file with the State Board an itemized statement reporting all receipts of Candidates Fund monies and of all subsequent expenditures and disbursements and attach to the report the treasurer's verification that all funds were spent in accordance with the provisions of this Article.



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(b) Sixty-day Report. — By 60 days after each general election, the treasurer of each candidate receiving funds from the Candidates Fund in that general election campaign shall file with the State Board an itemized statement reporting all receipts of Candidates Fund monies and of all subsequent expenditures and disbursements and attach to the report the treasurer's verification that all funds were spent in accordance with the provisions of this Article.

(c) Audit. — The State Board shall conduct an audit of the 60-day post-election report. If the Secretary of the State Board finds that any funds were not disbursed or expended in accordance with this Article, the Secretary shall order the candidate to reimburse to the Candidates Fund the amount improperly expended or disbursed. (1987 (Reg. Sess., 1988), c. 1063, s. 1; 1991, c. 397, s. 1.)

Editor's Note. — Session Laws 1987 s. 1, makes this Article effective January 1, 1996.  
(Reg. Sess., 1988), c. 1063, s. 5, as amended by Session Laws 1991, c. 397,

**§ 163-278.55. (Effective January 1, 1996) Return of unspent money within 90 days of election.**

Any money a candidate receives from the Candidates Fund that is unspent within 90 days after the general election shall be returned to the Candidates Fund. One-half of any amount in the candidate's campaign account required by G.S. 163-278.8 shall be deemed to be money received from the Candidates Fund; provided that if, pursuant to G.S. 163-278.46, the candidate received grants from the Candidates Fund on less than a one-to-one ratio, the same proportion of the candidate's campaign account shall be deemed to be money received from the Candidates Fund. (1987 (Reg. Sess., 1988), c. 1063, s. 1; 1991, c. 397, s. 1.)

Editor's Note. — Session Laws 1987 s. 1, makes this Article effective January 1, 1996.  
(Reg. Sess., 1988), c. 1063, s. 5, as amended by Session Laws 1991, c. 397,

**§ 163-278.56. (Effective January 1, 1996) Duties of the State Board.**

The State Board shall establish rules for the administration and enforcement of this Article. (1987 (Reg. Sess., 1988), c. 1063, s. 1; 1991, c. 397, s. 1.)

Editor's Note. — Session Laws 1987 s. 1, makes this Article effective January 1, 1996.  
(Reg. Sess., 1988), c. 1063, s. 5, as amended by Session Laws 1991, c. 397,

**§ 163-278.57. (Effective January 1, 1996) Definitions.**

The terms "candidate," "expend," "individual," "person," and "treasurer" as used in this Article shall be as defined in G.S. 163-278.6. (1987 (Reg. Sess., 1988), c. 1063, s. 1; 1991, c. 397, s. 1.)

Editor's Note. — Session Laws 1987 s. 1, makes this Article effective January 1, 1996.  
(Reg. Sess., 1988), c. 1063, s. 5, as amended by Session Laws 1991, c. 397,



## North Carolina General Assembly

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THOMAS L. COVINGTON, Director  
 Fiscal Research Division  
 Suite 619, (919) 733-4910

TERRENCE D. SULLIVAN, Director  
 Research Division  
 Suite 545, (919) 733-2578

TO: Members of the Election Laws Review Commission

FROM: Evan Rodewald  
 Fiscal Research Division

DATE: January 5, 1995

RE: Request for Information on Revenue  
 for Public Funding of Campaigns

This memo responds to a request from your committee counsel to answer questions posed by Patricia Watts from Common Cause/ North Carolina.

The questions and the responses to them are listed below.

How much money is needed to fund the 1996 gubernatorial General Election under the current law?

Assuming no third party candidates are funded, \$2.6 million would be needed. 2,595,184 votes were cast in the last gubernatorial election. Each of the two candidates would therefore be limited to \$2,595,184 in total expenditures. One-half of that amount would be raised by the candidates, and one-half would come from the Candidates Fund.

In the event that the General Assembly elects to make direct appropriations to the Candidates Fund, what would be the maximum appropriation?

The State Board of Elections estimates that roughly \$190,000 will be in the fund by the 1996 elections. Therefore, the maximum balance to be appropriated would be approximately \$2.4 million.



If N. C. had a check-off instead of a tax add-on, how much money might that generate?

Because we don't know how taxpayers will respond, the amount of money a check-off would raise can't be projected with any precision. However, a \$1 check-off to the Political Parties Fund generated roughly \$381,000 in 1993. A \$1 check-off for the Candidates Fund may generate a similar amount, but may also generate significantly less. This is based on three assumptions:

1) Presumably, most taxpayers willing to divert one dollar (from the State's treasury) to the Parties Fund would be willing to divert a second dollar to the Candidates Fund. (After all, the money diverted does not come out of the individual taxpayer's pocket, and the difference between one dollar and two dollars does not seem significant).

2) However, some taxpayers willing to allocate the first dollar may not be willing to allocate the second dollar. Thus, as the check-off increases in value, the law of diminishing returns would apply. This assumption suggests that the money collected from a two dollar check-off would be something less than twice the collections from a one dollar check-off. How much less is a matter of speculation.

3) Collection data from the Department of Revenue suggests that contributions to both the Parties Fund and the Candidates Fund have declined over time. Attachment A shows that while income tax revenue increased 21% between 1989 and 1993, contributions to the Parties Fund decreased 25% and contributions to the Candidates Fund decreased 34% over the same period. If this trend continues, the \$381,000 generated by a one dollar check-off in 1993 may not be obtainable in 1994.

If the Candidates Fund had a one percent check-off, how much would be generated?

Estimating this number is extremely difficult. The average income tax due was \$1,451 in 1993. We have no idea how many people would be willing to check-off one percent (or \$14.51) to the Candidates Fund. The number would probably be significantly less than the 381,000 who checked off one dollar to the Parties Fund in 1993. The amount generated from a one percent check-off could range between \$300,000 and \$5,000,000.

What if taxpayers checked the box only if they did not want to contribute?

Under this scenario, the fund would benefit from taxpayers who (for any reason whatsoever) did not check the box. However, while we can say that this check-off option would generate more money for the fund than a standard check-off option, we don't know how much more it would generate.

What were the sources of funding for the Florida public financing program?

In the most recent election, Florida public financing amounted to \$12.8 million.

Roughly \$9.3 million (about 73%) came from Florida's General Revenue Fund. The balance (\$3.5 million) came from fines for late filing of finance reports, from violations of the elections code, from candidate filing fees, and from voluntary contributions.

What are the ramifications of abolishing the Fund?

Returning the funds to contributors would be expensive. How the fund balance should be distributed is a decision for policy makers.

**ATTACHMENT A: FINANCING FUND DATA**

	<u>1989</u>	<u>1993</u>	<u>% Change</u>
<b><u>Candidates Financing Fund</u></b>			
Contributions	6847	4539*	-34%
\$ Contributed (thousands)	\$26.6	\$18.0*	-32%
<b><u>Parties Financing Fund</u></b>			
Contributions (thousands)	505.9	381.1*	-25%
\$ Contributed (thousands)	\$505.9	\$381.1*	-25%
<b><u>Income Tax Data</u></b>			
# of Returns (thousands)	2,881	3,004	+4%
Avg. Tax due per return	\$1,243	1,451	+17%
Total Tax Due (\$ millions)	\$3,100	\$3,766	+21%

\*12-month projection based on January-October figures

SOURCE: Department of Revenue Tax Research Division

# North Carolina Alliance for Democracy

APPENDIX F

## Mission Statement

The North Carolina Alliance for Democracy is a nonpartisan, grassroots coalition of organizations and individuals from across North Carolina dedicated to making North Carolina's election process truly democratic. Our objectives are to:

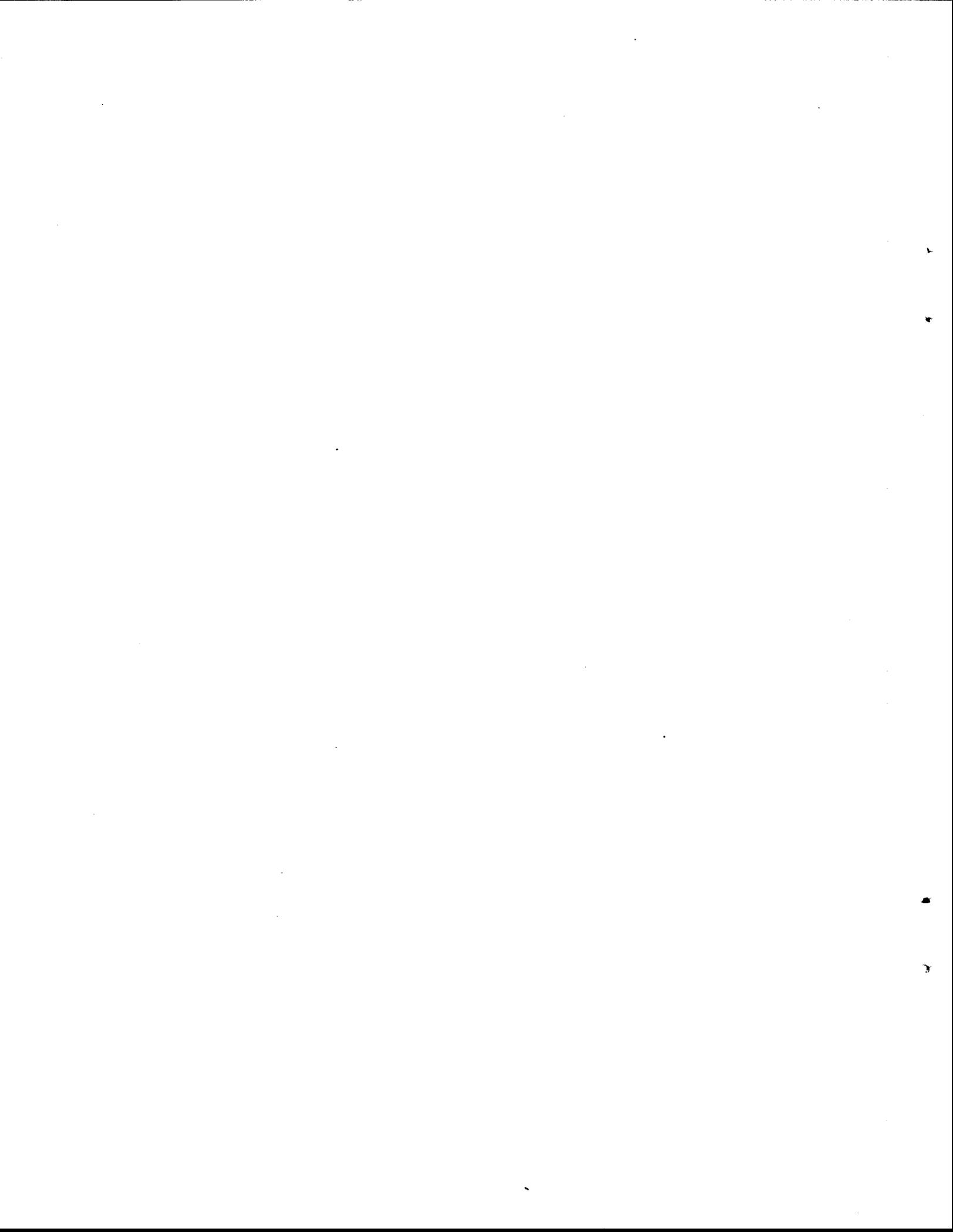
1. Reform methods of financing political campaigns to insure the public's right-to-know, combat corruption, conflict-of-interest, and the undue influence of campaign contributions in the political process so that candidates can compete more equitably for public office, and to
2. Promote reforms in the regulation of governmental lobbying and ethics which will best result in a political process which is open, accountable, and responsive to the public, and to
3. Protect the right of all citizens to vote through maintenance of a permanent, uniform voter registration process which poses the minimum possible barriers to voting consistent with preventing fraud, and promote consistent application of election laws across the state, and to
4. Promote measures which will result in fair and informative political campaigns.

### Member Groups of North Carolina Alliance for Democracy

*Center for Voting and Democracy*  
*Chatham County Political Reform Group*  
*Christian Social Ministries of the Episcopal Diocese*  
*Clean Water Fund of North Carolina*  
*Common Cause/NC*  
*Common Sense Foundation*  
*Concerned Citizens of Tillery*  
*Durham People's Alliance*  
*Ground Zero*  
*Institute for Southern Studies*  
*Love Your Mother*  
*NC AFL-CIO*  
*NC Alliance for Transportation Reform*  
*NC Coastal Federation*  
*NC Center for Voting and Democracy*  
*NC Council of Churches*

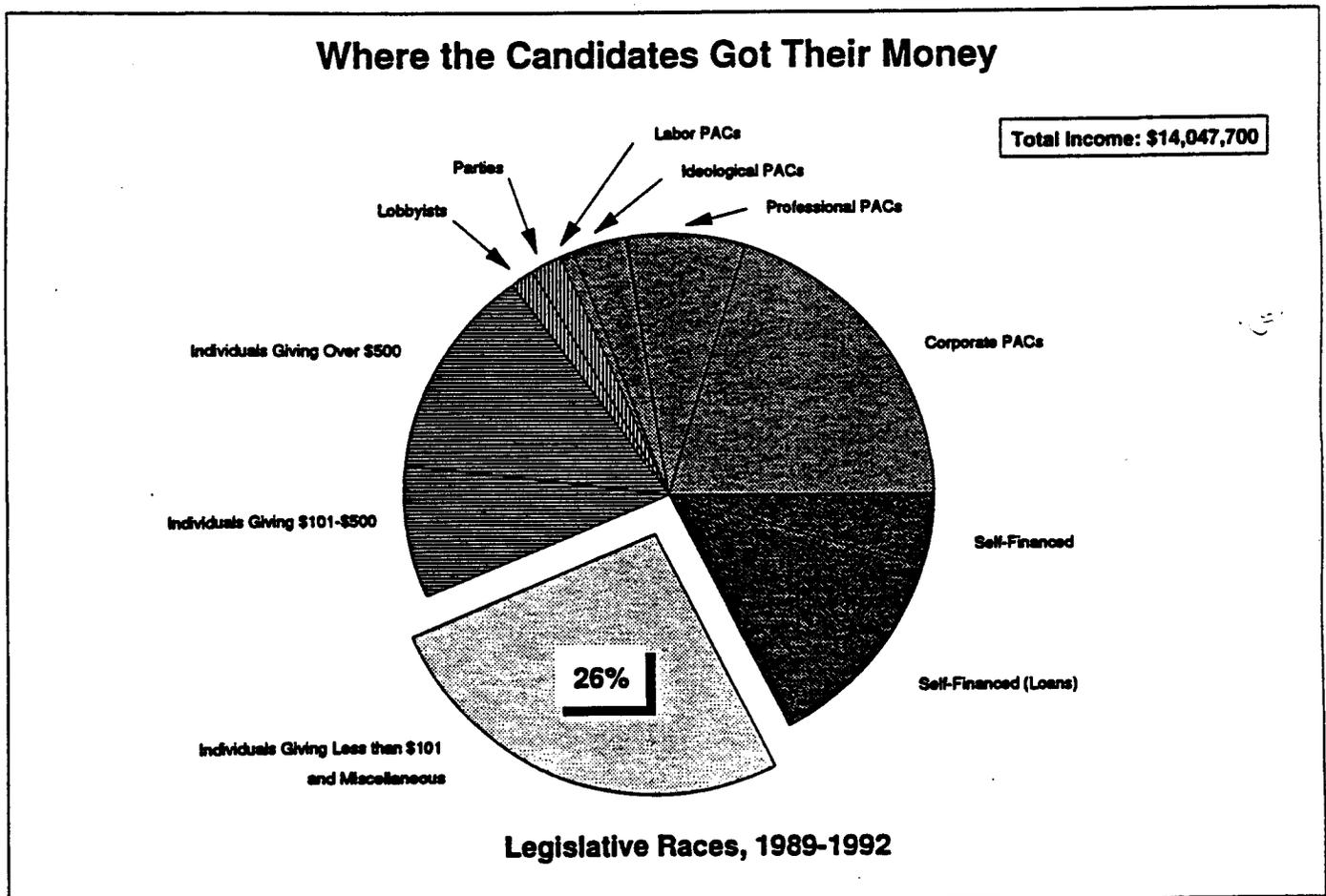
*NC Fair Share*  
*NC League of Women Voters*  
*NC Low Income Housing Coalition*  
*NC National Abortion Rights Action League*  
*NC WARN*  
*North Carolinians Against Racist and Religious Violence*  
*Orange County Greens*  
*Social Action Committee of Community United Church of Christ*  
*Student Environmental Action Coalition*  
*Triangle Chapter of Physicians for Social Responsibility*  
*US Public Interest Research Group*  
*Western NC Alliance*

11/22/94



## Where the Candidates Got Their Money: Legislative Races 1989-1992

Corporate PACs	\$2,835,900	20%
Professional PACs	\$1,040,900	7%
Ideological PACs	\$471,700	3%
Labor PACs	\$117,900	1%
Sub-Total	\$4,466,400	32%
Parties	\$270,600	2%
Lobbyists	\$205,900	1%
Individuals Giving Over \$500	\$1,825,200	13%
Individuals Giving \$101-\$500	\$1,166,700	8%
Individuals Giving Less than \$101 and Miscellaneous	\$3,665,600	26%
Sub-Total	\$6,863,400	49%
Self-Financed (Loans)	\$1,800,300	13%
Self-Financed	\$647,000	5%
Sub-Total	\$2,447,300	17%
Grand Total	\$14,047,700	100%



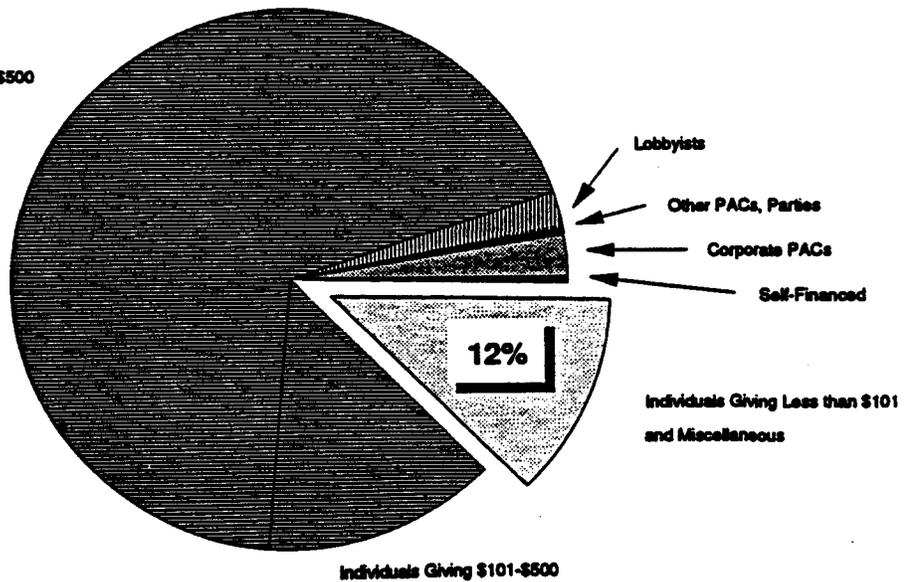
## Where the Candidates Got Their Money: Governor Races, 1992

Corporate PACs	\$356,700	3%
Professional PACs	\$18,400	0%
Ideological PACs	\$13,500	0%
Labor PACs	\$26,400	0%
Sub-Total	\$415,000	3%
Parties	\$20,400	0%
Lobbyists	\$295,900	2%
Individuals Giving Over \$500	\$9,703,300	68%
Individuals Giving \$101-\$500	\$1,947,300	14%
Individuals Giving Less than \$101 and Miscellaneous	\$1,743,500	12%
Sub-Total	\$13,690,000	97%
Self-Financed (Loans)	\$19,600	0%
Self-Financed	\$28,100	0%
Sub-Total	\$47,700	0%
Grand Total	\$14,173,100	100%

## Where the Candidates Got Their Money

Total Income: \$14,173,100

Individuals Giving Over \$500

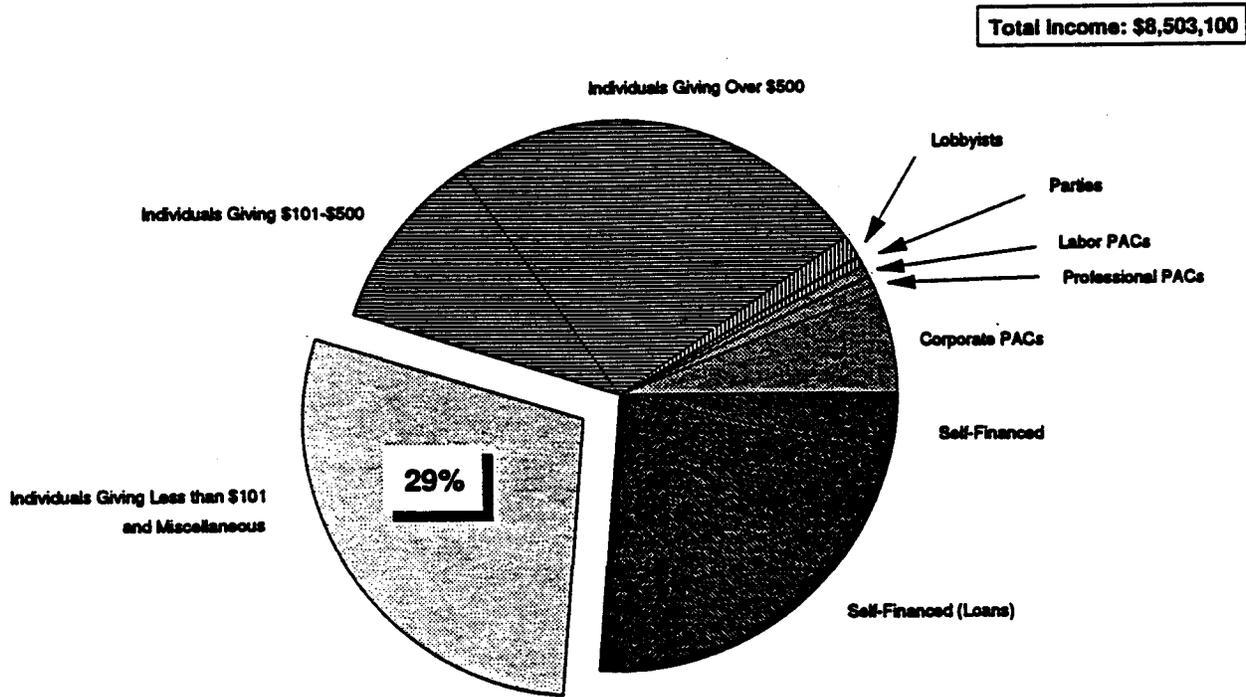


Governor's Race, 1989-1992

## Council of State Races, 1992

Corporate PACs	\$518,700	6%
Professional PACs	\$83,800	1%
Ideological PACs	\$10,600	0%
Labor PACs	\$54,000	1%
Sub-Total	\$667,100	8%
 Parties	 \$49,100	 1%
 Lobbyists	 \$113,500	 1%
Individuals Giving Over \$500	\$2,116,500	25%
Individuals Giving \$101-\$500	\$896,500	11%
Individuals Giving Less than \$101 and Miscellaneous	\$2,426,200	29%
Sub-Total	\$5,552,700	65%
 Self-Financed (Loans)	 \$1,918,500	 23%
Self-Financed	\$315,700	4%
Sub-Total	\$2,234,200	26%
 Grand Total	 \$8,503,100	 100%

### Where the Candidates Got Their Money

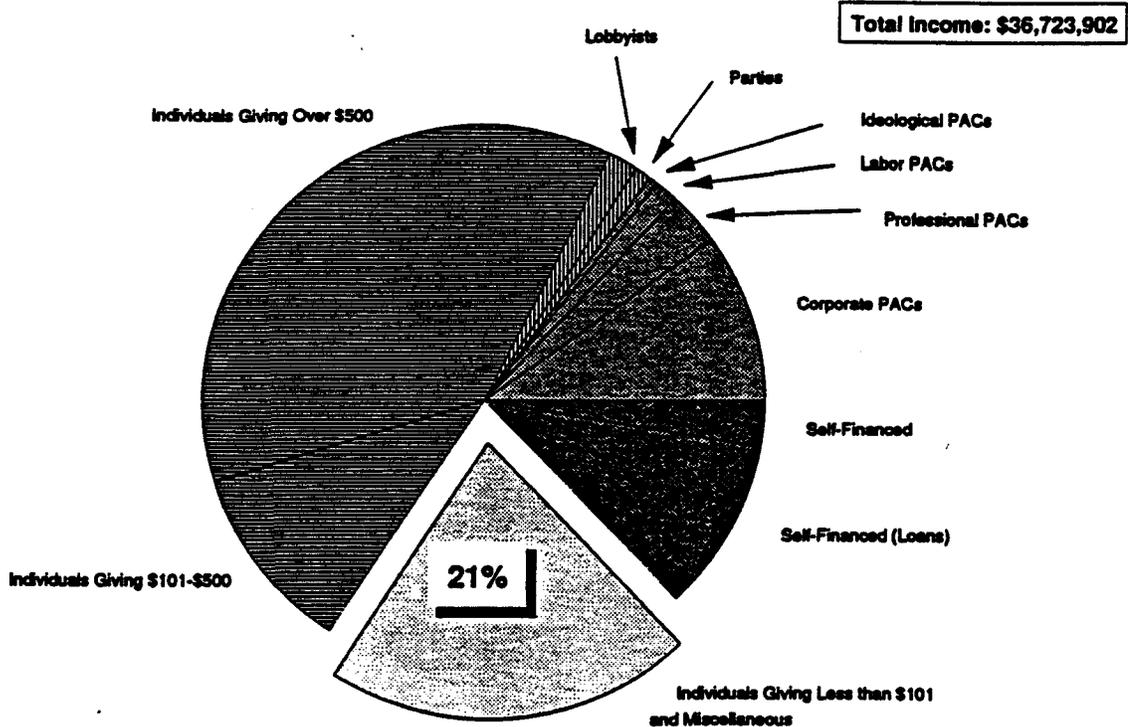


**Council of State Races, 1989-1992**

## Where the Candidates Got Their Money: All Races, 1989-1992

Corporate PACs	\$3,711,300	10%
Professional PACs	\$1,143,100	3%
Ideological PACs	\$495,800	1%
Labor PACs	\$198,300	1%
	<hr/>	
	\$5,548,500	15%
Parties	\$340,100	1%
Lobbyists	\$615,300	2%
Individuals Giving Over \$500	\$13,645,001	37%
Individuals Giving \$101-\$500	\$4,010,500	11%
Individuals Giving Less than \$101 and Miscellaneous	\$7,835,300	21%
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	\$26,106,101	71%
Self-Financed (Loans)	\$3,738,400	10%
Self-Financed	\$990,800	3%
	<hr/>	
	\$4,729,200	13%
	\$36,723,902	100%

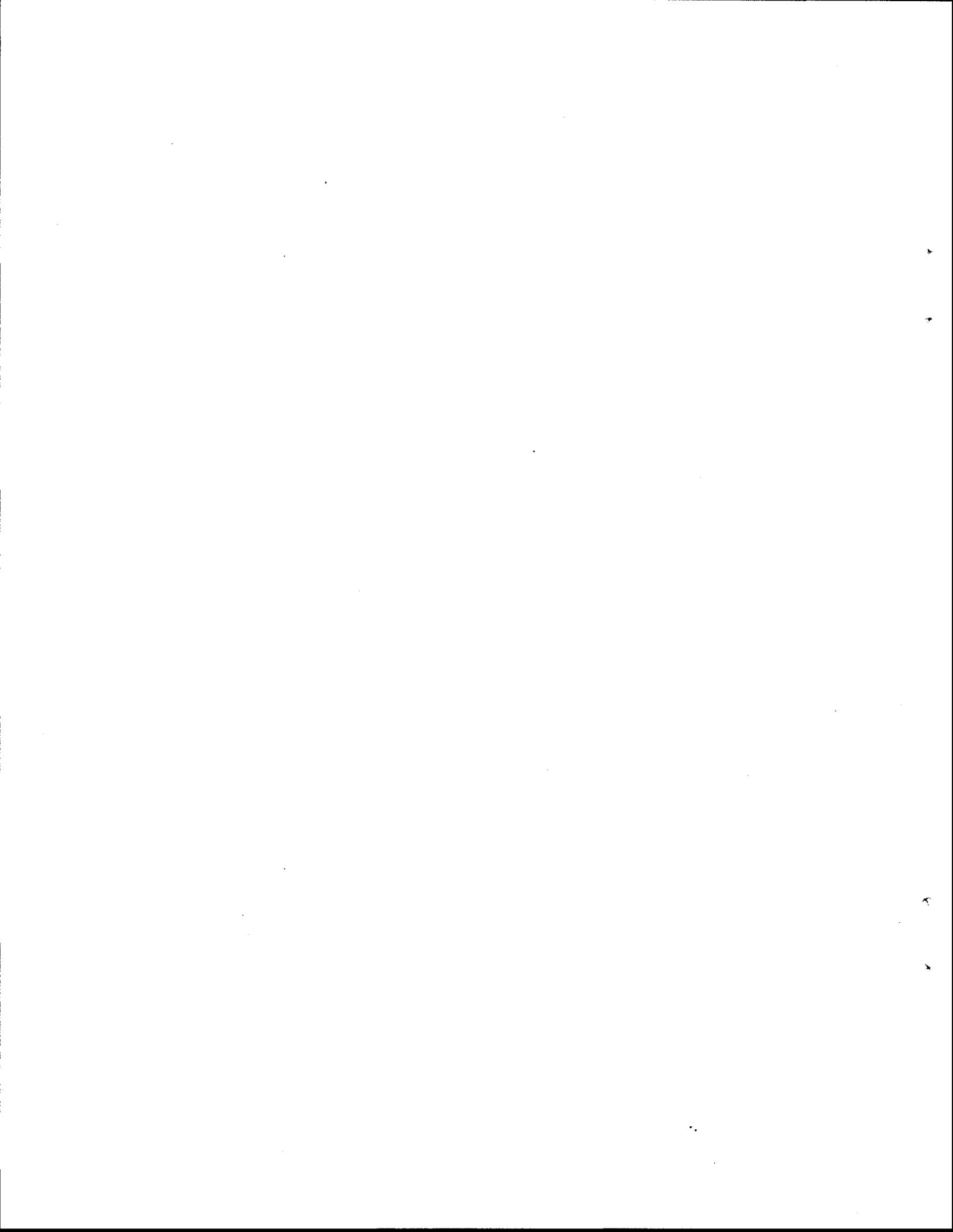
### Where the Candidates Got Their Money



All Races, 1989-1992

**TRENDS IN CAMPAIGN SPENDING**

Year	Cost of Legislative Seat		Percentage Increase	
	HOUSE	SENATE	HOUSE	SENATE
1976	\$ 1,925	\$ 3,263		
1980	6,279	6,709	226%	106%
1984	6,942	14,195	11%	116%
1988	14,912	21,812	115%	54%
1992	19,100	34,401	28%	58%
1976-1992			892%	954%





THE "DEMOCRATICALLY FINANCED ELECTIONS" PROPOSAL  
FOR CAMPAIGN FINANCE REFORM IN NORTH CAROLINA

One of two specific proposals recommended for legislative consideration by the North Carolina Alliance for Democracy as being consistent with the Alliance Statement of Principles on the Need for Comprehensive Campaign Finance Reform.

January 11, 1995

December 1994

Proposal for Democratically Financed Elections  
(Summary)

This summary contains the highlights of a proposal to restructure campaign finance laws for the State of North Carolina to provide for public financing. It is aimed at reducing the undue influence of individual campaign contributors, freeing elected officials and candidates from the difficult and time-consuming job of raising campaign funds, shortening over-long campaigns, and creating a more ethical climate in which to conduct the peoples' business.

This proposal is adapted from current efforts in a number of states, especially Missouri, which, in turn, has based its legislation on a federal model put forth by the Working Group on Electoral Democracy.

If the major points in this summary are accepted, a draft bill will be presented for consideration by the NC General Assembly's Election Laws Committee.

**SEED MONEY AND QUALIFYING**

Seed money contributions, to enable potential candidates to determine if they have sufficient public support to be viable candidates, are limited to \$100 by individuals in the candidate's district or state. Personal funds of the candidate, parents, spouse, or children may not exceed \$500 for a state representative, \$1,000 for a state senator, or \$5,000 for an election to statewide office. Seed money may be spent during the exploratory period, from the end of an election until January 1 of the next election year, and during the qualifying period, from January 1 of an election year to the start of the primary election campaign period. Seed money is limited to a total of:

state representative	\$1,000
state senator	\$2,000
council of state	\$4,000
lieutenant governor	\$7,500
governor	\$10,000

To qualify for public financing in the primary election, a candidate must prove that he or she has broad-based public support. This is done by raising a predetermined number of \$5 qualifying contributions from within the district or state. The number will be set at a level that will demonstrate broad public support for the candidacy while not placing too onerous a burden on the candidate.

An independent candidate can qualify for public financing in the general election by raising one-and-one-half times the number of qualifying contributions required of a candidate running for the same office in the primary.

## **PUBLIC FUNDING AND CAMPAIGN SPENDING**

Qualified candidates will receive the following amounts of public funds for primary election campaigns:

state representative	\$15,000
state senator	\$25,000
council of state	\$250,000
lieutenant governor	\$500,000
governor	\$1,000,000

Qualified candidates will receive the following amounts of public funds for the general election campaign:

state representative	\$30,000
state senator	\$50,000
council of state	\$500,000
lieutenant governor	\$1,000,000
governor	\$2,000,000

Unopposed candidates in either primary or general elections will receive 25 per cent of the full financing amount.

All publicly financed campaign expenses will be paid by means of debit cards issued to qualified candidates.

## **REPORTING**

Detailed and timely reports must be submitted to the (Ethics Commission/Board of Elections) and must include:

For seed money (maximum \$100), the name and address of the contributor, who must be a resident of the district or state.

For \$5 qualifying contributions, the name and address of the contributor, who must be a resident of the district or state.

For privately financed candidates, the name and address of the contributor; if more than \$100, also the contributor's occupation and the name and address of the contributor's employer.



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Qualified candidates will receive the following amounts of public funds for primary election campaigns:

state representative	\$15,000
state senator	\$25,000
council of state	\$250,000
lieutenant governor	\$500,000
governor	\$1,000,000

Qualified candidates will receive the following amounts of public funds for the general election campaign:

state representative	\$30,000
state senator	\$50,000
council of state	\$500,000
lieutenant governor	\$1,000,000
governor	\$2,000,000

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For seed money (maximum \$100), the name and address of the contributor, who must be a resident of the district or state.

For \$5 qualifying contributions, the name and address of the contributor, who must be a resident of the district or state.

For privately financed candidates, the name and address of the contributor; if more than \$100, also the contributor's occupation and the name and address of the contributor's employer.

All campaign expenditures, whether by publicly or privately financed candidates, must be reported as required by law. In addition to other reports, a noncomplying candidate who receives, spends, or obligates to spend more than five per cent in excess of the publicly financed authorized amounts must report that fact; additional reports must be filed after each additional \$1,000 of expenditures are made. During the final six weeks of an election campaign, such funds received, spent, or obligated must be reported within 24 hours of the occurrence.

When noncomplying candidates receive contributions or make expenditures more than five per cent in excess of the authorized amounts, opposing publicly financed candidates will be credited with additional amounts totaling twice the excess.

## **PENALTIES**

If an eligible candidate spends more than the public funds allocated, the candidate will be subject to a civil fine of up to 10 times the amount by which the expenditures exceed the limit. Any candidate who accepts contributions in excess of the specified limits is subject to a civil fine of up to 10 times the amount that exceeds the limit.

If a candidate, or other person acting on behalf of a candidate, knowingly accepts more benefits than entitled to, spends more than the amount of public funds received, or otherwise misuses the benefits of public financing, such person may be fined not more than \$25,000, or imprisoned not more than 5 years, or both.

## **OTHER PROVISIONS**

Any candidate will not be allowed to make a contribution to the campaign of any other candidate except the amount allowed as a personal contribution.

Campaign periods will be shortened. The campaign periods will be enforced by not releasing public financing funds until the start of the period. Noncomplying candidates will commence campaigning early at their peril, considering their opponents will be credited with twice the amount by which their spending exceeds public financing limits.

The campaign periods will be:

Exploratory period -- from the end of an election until January 1 of the next election year.

Qualifying period -- from January 1 of an election year to the start of the primary election campaign period.

Primary campaign -- from the primary filing deadline to primary election day.

General election campaign -- from September 1 until election day.

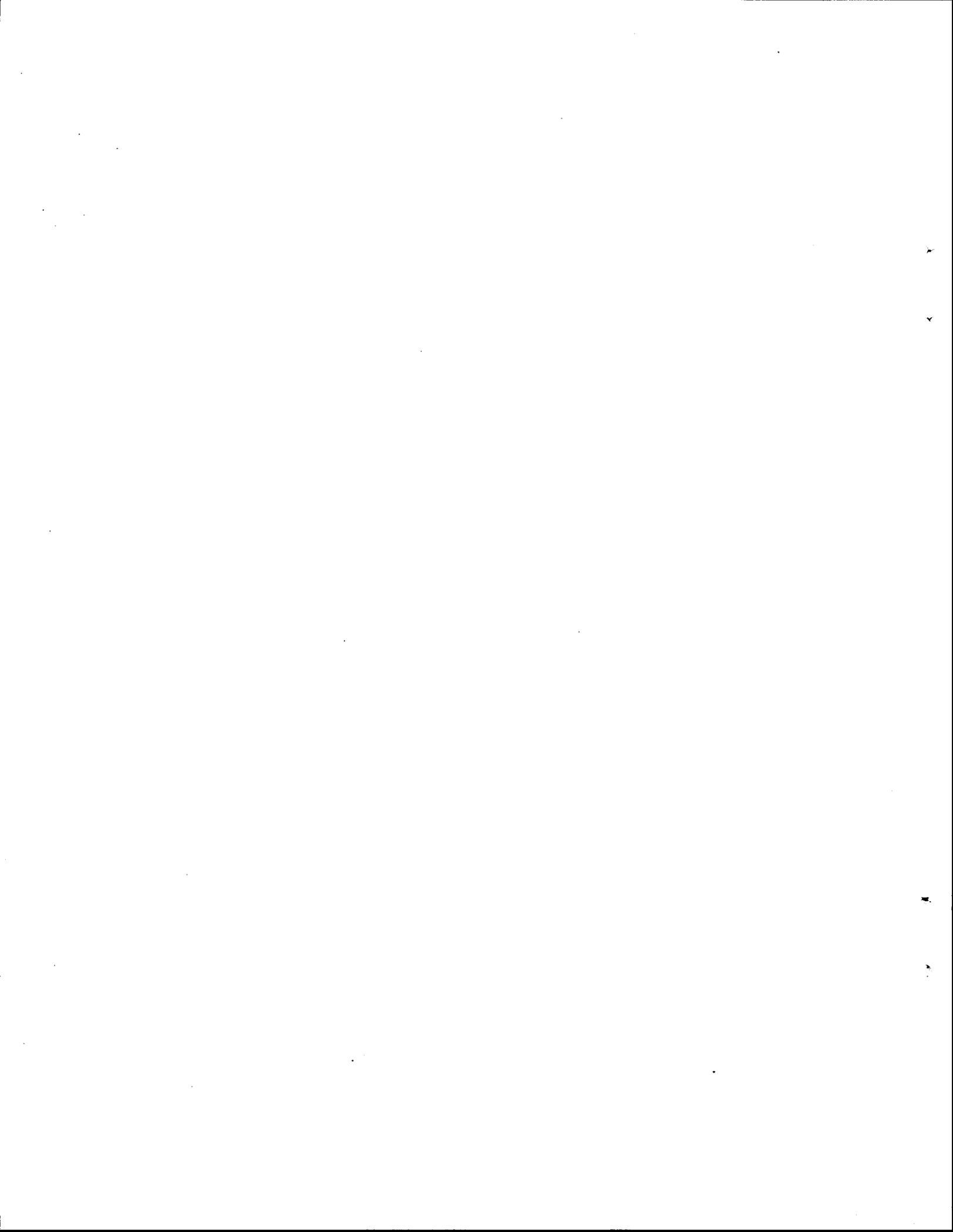
If the legislature establishes a state ethics commission (bills to achieve that were introduced in both houses in 1993-94, but no action was taken), that commission will be charged with administering and enforcing the provisions of this act. If not, a special staff in the state elections board will have to be created to administer the act.

Allowable campaign expenditures will be defined by the (ethics commission/state elections board), but will include as a minimum: advertising such as bumper stickers, buttons, banners, lawn signs, and media advertisements; public opinion polls; campaign-related mailings; telephone calls; postage; office supplies; travel; rent and other overhead for campaign headquarters; salaries and fees for campaign staff and consultants; and food and drink for campaign workers while involved in campaign activities.

## FUNDING

Funds for public campaign financing need not require any tax increase. The total cost, which should be no more than one-half of one per cent of the state budget, should be a regular part of that state budget -- more than adequately covered by the state's current and recurring surplus.

Another way of defining the cost is that the total could be as low as \$3 or \$4 per citizen per year, and should never exceed that range by much. An absolute figure is not possible because of such variables as the number of primary candidates running, the amount of excess expenditures of nonqualifying candidates that must be matched 2-for-1, and cost of administration.





THE "27 POINT" PROPOSAL  
FOR CAMPAIGN FINANCE REFORM IN NORTH CAROLINA

One of two specific proposal recommended for legislative consideration by the North Carolina Alliance for Democracy as being consistent with the Alliance Statement of Principles on the Need for Comprehensive Campaign Finance Reform.

January 11, 1995

## **SPENDING LIMITS & PUBLIC FINANCING:**

The N.C. Candidates Financing Fund was put into law in 1988 as a way to limit spending in some state races by providing matching funds to candidates agreeing to the spending limits.

Unfortunately, the ratified legislation funded the Fund through a tax add-on, not an adequate source of revenue, to provide matching funds to candidates. Tax form check-offs are preferable to tax add-ons because they provide more realistic revenue for publicly financed campaigns.

Because spending limits provide more fair and competitive campaigns, the Alliance recommends that:

- 1) The General Assembly designate additional sources of revenue to the Candidates Fund (sources might include changing to a tax check-off system and an appropriation from the General Fund).**

Also, it is the responsibility of the State of North Carolina to educate its citizens about laws which affect the voters.

Since a citizen awareness campaign about the N.C. Candidates Financing Fund is imperative, the Alliance recommends that:

- 2) The General Assembly allocate funds for an aggressive and comprehensive public education campaign to increase citizen awareness and public participation in the N.C. Candidates Financing Fund.**

The Candidates Financing Fund law should be amended to allow for viability by the 1996 General Election. Because citizens and candidates need an opportunity to learn the advantages of spending limits linked to public financing, the Alliance recommends that:

- 3) **The General Assembly prepare a phase-in implementation plan to provide matching funds from the N.C. Candidates Financing Fund to candidates for Governor, Council of State, and General Assembly; the phase-in should begin by the election of 1996.**

#### **CONTRIBUTION LIMITS:**

The current N.C. contribution limit to candidates and political committees is a high \$4,000 per election. To lessen the influence of large contributors, the Alliance recommends that:

- 4) **Contribution limits be set at the following levels:**

**Political committees to candidates - \$2,000**

**Individuals to candidates - \$500**

**Individuals to political committees - \$100**

People who contribute to a candidate should be assured that their contribution goes to the candidate of their choice, not to some other candidate that they may not support.

- 5) **A candidate committee can only spend money to further its candidate's campaign. A candidate committee cannot spend money on another candidate's committee.**

Currently, N.C. has no contribution limits for family members of candidates which means that candidates with wealthy relatives have an unfair advantage. At least 22 other states restrict campaign contributions from family members of candidates. To provide fairness to competing candidates and lower the cost of campaigns, the Alliance recommends that:

- 6) **The Campaign Finance Law be amended to remove the individual contribution limit exemption for family members. Family members should be restricted to the same contribution limit as all other individuals.**

Also, candidates can now receive contributions from children; children related to candidates can contribute any amount. The Alliance believes this practice should be stopped and recommends that:

- 7) **Candidates be prohibited from receiving contributions from unemancipated children.**

Loans to campaigns are required to be disclosed in the current law. In order to level the playing field, however, for those candidates who cannot afford to risk personal resources the Alliance recommends that:

- 8) **All loans, including those made by the candidate to his/her own campaign, should be considered donations the day after the election; loans may not be repaid after the election.**

Non-partisan elections should remain non-partisan; therefore, the Alliance recommends that:

- 9) **Political parties be banned from making contributions to candidates in non-partisan elections.**

Also, the Alliance recommends:

- 10) **Candidates who accept partial public funding will be limited to contributing to their own campaigns the following amounts per election: Candidates for Governor \$25,000; candidates for Council of State \$10,000; candidates for General Assembly \$5,000.**
- 11) **Referenda and constitutional questions shall be treated as all other elections with respect to contribution limits to the extent allowed by the state and federal constitutions.**
- 12) **It should be clarified that only candidates should receive contributions in any given election (i.e., no second primary contributions if a candidate is not involved in the second primary).**

Soft Money is campaign money raised outside the restrictions of individual and/or PAC contribution limits. The General Assembly must address the problem of political party "soft money" contributed without limits to candidates.

- 13) **Permit soft money contributions without specific limits to political party committees for administrative, legal and accounting costs, as long as there is full and timely disclosure.**

- 14) **Change N.C. Election Law exemption for Party Executive Committees and instead limit Party Executive Committee contributions to candidates to \$2,000 per election.**

**DISCLOSURE:**

Bundling occurs when a large contribution (exceeding the contribution limits) is generated by many individual contributions. A stack of checks is presented to a candidate in a bundle. Attempts to evade contribution limits in this way should not be allowed. The Alliance recommends a 3-pronged approach to correct this problem:

- 15) **All contributions should be designated to a particular candidate, political committee, referendum committee, or political party at the time the contribution is made; no unspecified contributions should be allowed. Section (a)(3) of Statute 163 -278.20 Disclosure before soliciting contributions should be removed.**
- 16) **For contributions of \$100 or more, all contributors to candidates and political committees must be required to list their occupation, employer and employer's address in addition to current disclosure requirements. No such contribution may be deposited unless the campaign has this information for disclosure.**
- 17) **PAC's and lobbyists should be required to count contributions they arrange for a candidate toward their own contribution limit. Contributions bundled or otherwise arranged by a political party committee or other individual or intermediary should count toward the intermediary's contribution limit as well as the original contributor's limit.**

Independent expenditures, many of which are highly negative in tone, are expenditures carried out in behalf of -- or in opposition to -- a candidate without her or his request, knowledge, or cooperation.

Lower contribution limits may trigger more independent expenditures as a way of evading limits. Independent expenditures, therefore, must be fully disclosed so that the public may recognize them as such. The Alliance recommends that:

- 18) **Large independent expenditures late in the campaign should report within 24 hours and be itemized by name, address, and purpose.**

Personal use of campaign funds is inappropriate and the law should be clear about the proper use of funds. The Alliance recommends that:

- 19) The law include a provision that a candidate or the candidate's immediate family may not receive payments, other than reimbursements, from a committee. Committee funds may not be used to defray personal living expenses for the candidate or the candidate's immediate family which are unrelated to the campaign or the office if the person is an officeholder.

Disclosure alone is not enough to keep campaign practices above board and open to the public. Campaign finance reports must be timely and as much information available to the public prior to the election as possible. The Alliance recommends:

- 20) Campaign reports are to be filed quarterly at dates as close to election as possible.
- 21) All campaign reports reflecting more than \$100,000 in contributions shall be provided electronically; the State Board of Elections shall make the software available and provide technical support as necessary.
- 22) On-line access to campaign finance information should be available to the public. The budget of the Campaign Reporting Office should be increased to provide adequate staff and equipment analysis for public distribution.

Surplus funds create war chests for incumbents to the disadvantage of challengers. To restore confidence in the political system the Alliance recommends:

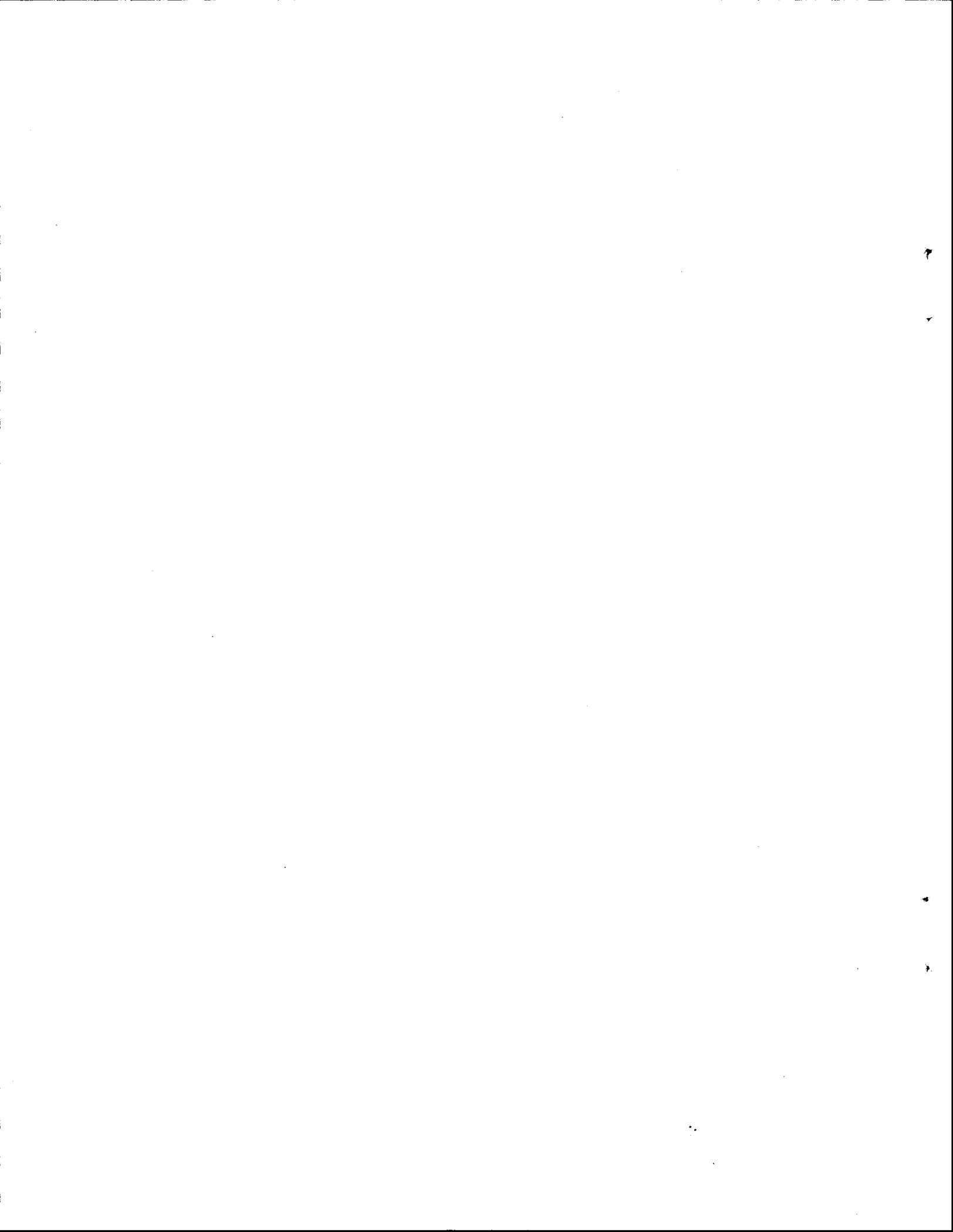
- 23) A candidate whose candidate committee has an unexpended balance of funds should return all surplus funds pro rata to all contributors or deposit the surplus to the N.C. Candidates Financing Fund.

## **ENFORCEMENT & SANCTIONS:**

Enforcement of campaign finance laws is essential. To increase the integrity of the electoral process, the Alliance recommends the following increase in penalties for noncompliance:

- 24) The current late fees for delinquent reports should be increased to a daily penalty of \$100 per day or a daily penalty in the amount of the candidate's filing fee whichever amount is greater.
- 25) The penalty for a fraudulent report should be increased from a misdemeanor to a felony. Persons subject to this penalty shall be the candidate and the filer of the report.
- 26) The State Board of Elections should be granted the authority and the means to investigate and prosecute election law violations.
- 27) Funding should be appropriated to require the State Board of Elections to do random field audits.

The N.C. Alliance for Democracy believes these reforms to be the most immediate needs to bring North Carolina's laws into compliance with basic principles of adequate campaign finance law.



Campaign Finance Reform

The following are some ideas on contribution limits, spending limits, public financing, disclosure and enforcement that you may find interesting. This position paper outlines the "Can't Vote, Can't Contribute" approach to contribution limits. These strict limits to contributions would severely limit the amount of money that could be raised and cause undue hardship on a candidate in today's campaign arena. This paper outlines methods to encourage the adoption of voluntary spending limits to remove this hardship. A major part of encouraging candidates to accept these spending limits is public financing. This paper presents ideas on a limited form of public financing to meet the goal of encouraging spending limits without dipping too deeply into the public coffers. Finally, this paper contains some ideas on disclosure and enforcement issues.

**Contribution Limits: CAN'T VOTE, CAN'T CONTRIBUTE**

Can't Vote, Can't Contribute is a simple, common-sense approach to contribution limits. Derived from a California campaign finance reform initiative submitted by members of UWSA in August of 1993 – Can't Vote, Can't Contribute can be applied to our situation here in North Carolina. This approach eliminates campaign contributions from anyone but the voters. Otherwise, our representative democracy is corrupted. Only voters should be contributors. The most important part of this recommendation is 30 words long: *"No contribution shall be made, accepted, or expended for any election for elective office from any donor other than an elector who resides inside the jurisdiction of the elective office."*

\* Limits campaign contributions to candidates for the general assembly, the council of state, and governor.

\* Restricts who can make campaign contributions for all elective offices.

\* Eliminates:

- PAC contributions
- Corporate and Union contributions
- Foreign interest contributions
- Pass-through from one politician to another
- Out of state contributions
- Out of district contributions
- Contributions from unemancipated children

1) No contribution shall be made, accepted, or expended for any election for elective office from any donor other than an elector who resides inside the jurisdiction of the elective office.

2) No person shall make contributions totaling more than five hundred dollars (\$500) to any candidate for state assembly or the council of state or governor, to any controlled committee of those candidates, or to any committee that supports or opposes those

## Campaign Finance Reform

candidates. The monetary limitation imposed by this section shall apply to each election in which the name of the candidate appears on the ballot or is eligible to be written in.

3) No candidate for state assembly or the council of state or governor, no controlled committee of that candidate, and no committee that supports or opposes those candidates shall accept contributions from a person totaling more than five hundred dollars (\$500). The monetary limitation imposed by this section shall apply to each election in which the name of the candidate appears on the ballot or is eligible to be written in.

Part 1 above might be challenged in the courts. In this case, points 2 and 3 should still be enforced.

If you can't vote, you shouldn't be able to contribute. Anything less leaves the door open to politicians representing interests other than those of their constituents, thereby undermining the very basis of our government. Congressional staff time and labor used for campaigning should count toward totals on political contributions. Publicly funded trips that include campaign activities should be treated as campaign expenditures.

\* **Bundling.** An entity, other than an individual, should not be an intermediary or an agent for a contribution. An individual should only make a contribution on behalf of another individual and should have that contribution counted towards the contribution limits of the source individual and the intermediary.

\* To discourage bundling, contributions of \$100 or more should disclose not only the name and address of the contributor, but also the name of the employer.

\* Loans to a candidate for use in campaigning should be considered to be a contribution. There should be no repayment of loans from funds raised after election day including loans from the candidate.

\* We should remove individual contribution limit exemption for family members of candidates.

### Spending Limits & Limited Public Financing

To address imbalances in campaign funding and even the playing field for all candidates, this proposal recommends the adoption of voluntary spending limits. Some say that getting candidates to accept these spending limits will require public financing of elections. However, considering the shortage of public funds and the underfunding of many important programs, limited public funding for campaign financing is a viable and desirable policy. This proposal recommends:

## Campaign Finance Reform

1) Voluntary spending limits be set, and candidates encouraged to accept these limits – for all races for the general assembly, the council of state, and for governor. These spending limits should be adjusted periodically for inflation.

- \* Giving candidates who accept spending limits access to the media would allow lower limits to be set. Media vouchers could be used for advertisements if participating candidates accept format restrictions designed to increase the accountability and substance of their ads. Everyone should see who is doing the name calling.

- \* Extending the franking privilege to challengers would also allow lower limits to be set and the playing field to be leveled.

- \* A voter information commission should be formed to plan debates and distribute information about all the candidates to all registered voters. The state would strongly encourage media to air debates freely or inexpensively.

2) If a candidate does not accept the spending limits and spends 25% or more of the limit, then that candidate's qualified opponents who did agree to the spending limits would have those limits waived. Furthermore, these qualified opponents would receive state funds from the Candidates Financing Fund to match individual contributions of \$100 or less. In a race in which all candidates accept the spending limits, there is no public funding required.

3) If independent expenditures of more than 10% of the limit are made in support of a candidate, then qualified opponents of that candidate would have the spending limits waived and would receive state funds from the Candidates Financing Fund to match individual contributions of \$100 or less up to the amount of the independent expenditure. Similarly, if independent expenditures of more than 10% of the limit are made in opposition to a qualified candidate, then that qualified candidate would also have the limits waived and would receive matching funds.

There should be no personal use of campaign funds. Unused campaign funds would have to be given to the Candidates Financing Fund.

For a candidate to qualify for public funding should require the candidate to raise a certain threshold of contributions before any matching funding is made available.

4) The general assembly should designate additional sources of revenue to the Candidates Fund. Sources might include changing the NC Political Party tax check-off to the Candidates Fund.

5) The general assembly should prepare a phase-in implementation plan to implement these voluntary spending limits. This plan should include the possibility of providing matching funds from the NC Candidates Financing Fund to candidates for

## Campaign Finance Reform

Governor, Council of State, and General Assembly. The phase-in should choose a limited number of elections to start with and should begin by the election of 1996.

6) Political parties should be limited to contributing an amount not to exceed 10% of the spending limit to any candidate for any race.

7) Candidates who accept the voluntary spending limits should be limited to contributing to their own campaigns the following amounts per election: Candidates for Governor \$25,000; candidates for Council of State \$10,000; candidates for General Assembly \$5,000.

### Disclosure and Enforcement

This paper agrees with the guidelines for disclosure and enforcement that have been prepared by the North Carolina Alliance for Democracy (NCAD). These guidelines call for increased reporting including extra reports due shortly before each election, disclosure of information that would impede attempts at bundling, and increased penalties and longer statute of limitations on violations.

### Summary

The steps outlined in this paper will allow the state of North Carolina to be more responsive to its people's needs and allow its elected officials to carry out their duties with less time and regard spent on campaign finances.

For more information about the issues addressed in this paper, please feel free to contact:

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~~leg@matrix.com~~

PRESENTED BY SEN. CLARK PLEXICO, JAN. 12, 1995

Alternative Ways to Encourage Spending Limits. The U.S. Supreme Court, while allowing mandatory limits on contributions, forbids mandatory limits on campaign spending. Voluntary limits, however, are permitted and various mechanisms to encourage candidates to opt in on a system of spending limits have been tried or proposed:

- \* Tax Credits for Contributions -- Minnesota gives tax credits up to \$50 for contributions to candidates who agree to limit their expenditures.
- \* Preferential Contribution Limits -- New Hampshire sets its contribution limit at \$5,000 to candidates who agree to limit their expenditures, but at \$1,000 to candidates who don't.
- \* Public Financing -- The best-known method of encouraging spending limits is to give public financing to candidates who opt in. Congress established such a system for Presidential elections. North Carolina since 1988 has allowed taxpayers to contribute part of their income-tax refund to the Candidates Financing Fund, which effective 1996 will be distributed to candidates for Governor who agree in the general election to limit their spending to \$1 per vote in the last Governor's election. At the current rate of growth the Fund will be nowhere near large enough for credible use in 1996. Other states have had more success in filling such a fund by using other means, including direct appropriations.

One or a combination of the above could be used to encourage candidates to limit their spending.

In setting up the voluntary system of appropriate spending limits would be appropriate, the following questions need to be dealt with:

- What offices should be included? Should we set different spending limits for Governor, for Lt. Gov., for Council of State, for Legislature? Should candidates in multi-member districts have the same limit as those in single-member districts?
- Should we set a flat dollar amount for each office or use a formula of \$1 or 50 cents per number of votes cast in the last election for that office, or per number of registered voters?
- Should the limit be a year-long limit? How should we factor in uneven primary or general election opposition?
- How should we deal with candidates whose opponents do not

accept spending limits?

Here is an example of how a hypothetical proposal for spending limits might apply to a race for Governor:

A candidate for Governor would agree to spend no more than \$1 times the number of votes cast in the previous general election for Governor (about \$2.6 million) in the general election campaign, and to spend half that in the primary campaign. In exchange for that pledge, the candidate would be allowed to raise \$4,000 from any given contributor per election, while a candidate who didn't take the pledge could raise only \$1,000 per election from a contributor. Also, contributors to the candidate who took the spending-limit pledge could take a 50% tax credit for their contributions, up to \$100. Contributors to candidates who did not agree to the spending limits would get no tax credit for their contributions.

**PROPOSAL FOR CHANGE IN LOCAL OPTION LAW  
FOR CITY AND COUNTY FORM OF GOVERNMENT -- 1-12-95  
MR. LEE MORTIMER, CENTER FOR VOTING AND DEMOCRACY**

**APPENDIX L**

I'd like to thank Senator Plexico and Representative Michaux for letting me address the Election Laws Review Commission today about alternative voting methods. Many of you may remember this issue from when I addressed you a year ago. So I'll try to be brief and to the point.

Under current Home Rule options, local governments are authorized to adopt only district or at-large elections. These are traditional "winner-take-all" election methods—in which the voters with the most votes get all the representation...and everyone else gets no representation.

Three alternative methods—limited voting, cumulative voting, and preference voting—should be added to those Home Rule options. These methods are forms of proportional representation...also called P-R. PR voting allows minority groups of voters—who have significant voter support—to win a fair share of representation on a governing board.

The operating principles of PR voting are (1) candidates are elected from multi-member districts and (2) voters can concentrate their voting strength behind a single candidate. Let's say we're electing five people. With limited voting, you could vote for one, or possibly two, candidates.

Cumulative voting gives you five votes that you can distribute in any combination, including all five votes for one candidate. With preference voting, you rank the candidates in the order you prefer them—first, second, third, and so on—and candidates win by reaching a pre-determined number of top-ranked votes.

All three PR methods have solid track records for assuring fair representation for racial minorities. Limited voting has been adopted by a number of North Carolina localities—including Beaufort, Bladen, and Martin counties, and most recently Anson County—to resolve voting rights disputes.

Cumulative voting, which is advocated by Lani Guinier, is used in several localities around the country to provide minority representation. It was used to elect the Illinois legislature from 1870 through 1980...and was briefly used to elect the South Carolina legislature during Reconstruction.

Preference voting (*also known as the single-transferable vote*) has been used in 22 U.S. cities—including Cincinnati; Cleveland; New York; Boulder, Colorado; and Cambridge, Massachusetts. Preference voting enabled African-Americans to be elected decades before that became commonplace.

But I'm sure you want to hear more than academic arguments about representation. There are tangible and compelling reasons to support this proposal. As you know, the Supreme Court is expected to make a ruling by summer on racially defined voting districts. If such districts are upheld, then there won't be a problem...at least not a legal problem.

*(see other side)*

But if racially defined districts are overruled or curtailed, many local communities could face problems. Already, the Durham school merger is under a legal challenge, and the basis of that challenge is the racially defined voting districts used to elect the school board members. An adverse Supreme Court ruling on districts could result in dozens of local elections coming unglued.

In that eventuality, wouldn't it be prudent to grant local communities the flexibility to choose election methods that assure minority representation...and are fair to all voters?

PR can benefit any significant minority—and not just racial minorities. I worked with a group of conservative, mostly rural voters in Orange County—that included the chair and vice-chair of the county Republican Party. These voters represent 20 to 25 percent of the electorate, but they've never been able to elect anyone to the county commission.

A local task force that studied Orange County elections included cumulative voting as one of its recommended changes. I served on the Durham Government Merger Task Force, and preference voting missed by one vote of being recommended for a merged city-county government.

All this proposal does is add limited, cumulative, and preference voting options to the existing 160A-101 Home Rule options for cities—and 153A-58 options for counties. It would not require any local government to change its election method. It simply allows localities to evaluate and decide for themselves if they want to use alternative voting methods.

I have shared this proposal with the Association of County Commissioners and the League of Municipalities, and the initial reaction from both of them was favorable. This proposal has also been discussed and endorsed by the North Carolina Alliance for Democracy.

In addition to making elections fairer and more unifying, PR could be called the "multi-purpose" reform because it addresses so many of the concerns people have about ~~the~~ politics—money in campaigns, low voter turnout, negative campaigning, electing more women, and gerrymandering. You might also discover that PR is something you can offer voters as an alternative to term limits.

You will recall that the original Election Laws Review Commission was set up in three subcommittees. The subcommittee chaired by Senator Winner and Representative Church was designated to study alternate election methods. I believe you already have a favorable report from that subcommittee. By implementing this proposal, you will be performing an important service for local communities.

Thank you for your time. I'll be happy to take any questions.

Lee Mortimer, 1-12-95

QUESTIONS ABOUT REGULATING NEGATIVE ELECTIONEERING

William R. Gilkeson, Staff Attorney  
 Legislative Services Office  
 December 1, 1994

Members of the Election Laws Review Commission have raised several questions about the regulation of negative campaigning. Most such regulation involves difficult constitutional questions concerning the right to free expression under the First Amendment.

One question asked was this: Does the media have the discretion to refuse to run an ad it believes to be untrue? The answer depends on what the medium is:

- \* A newspaper or other print medium has a First Amendment right to refuse to print a political message that it does not want to print. This right was upheld by the U.S. Supreme Court in Miami Herald v. Tornillo, 1974, where a Florida statute was invalidated that required a newspaper to give space to a candidate it opposed in an editorial. The right may not be absolute, but it should extend to the right to refuse to print an ad.
- \* A broadcast medium, such as radio or VHF television, is more highly regulated because it has been awarded one of the limited number of frequencies. The Federal Communications Act requires a broadcast licensee to accept advertising for candidates for federal office (Congress and President). It may reject all advertising in State and local elections, but if it accepts ads from any candidate in a race, it must afford equal access to all candidates in that race. The Act withholds from an FCC licensee any power of censorship over the material broadcast by a candidate. 47 U.S.C. §315(a) and 47 C.F.R. § 73.1941.
- \* Cable systems are governed by essentially the same laws as broadcast licensees under the Federal Communications Act and the FCC rules, except that cable systems are not required to accept ads from federal candidates. 47 CFR § 76.205.

A State could not conflict with the above FCC rules because federal law pre-empts the subject.

Another set of questions deals with regulating negative advertising that has different types of content. I will try to categorize these different types of ads and address each one in two ways:

1. What does the State now try to do about it? and
2. What can the State do about it constitutionally?

Untrue Derogatory Political Ads

1. North Carolina now makes it a misdemeanor to publish or circulate derogatory lies about a candidate. But the statute, G.S. 163-274(8), requires proof that the defendant knew the report to be false or recklessly disregarded its truth or falsity. That statute also requires proof that the

defendant calculated or intended to affect the chances of the candidate for election.

2. A federal District Court has held in a much-followed case (Vanasco v. Schwartz, 1975) that a government may not take action against political expression because it is false unless the falsehood rises to the level of "actual malice." Actual malice is basically the same as the requirement that appears in G.S. 163-274(8) (knew the report to be false or recklessly disregarded its truth or falsity). There is case law that prevents government from blocking the publication of a negative statement before it is determined to be a lie constituting actual malice. Such would be an unconstitutional prior restraint.

### Derogatory, Anonymous Political Ads, Even if True

1. North Carolina now makes it a misdemeanor "for any person to publish in a newspaper or pamphlet or otherwise, any charge derogatory to any candidate or calculated to effect the candidate's chances of nomination or election, unless such publication be signed by the party giving publicity to and being responsible for such charge." G.S. 163-274(7).
2. The State Supreme Court has upheld that statute (State v. Petersilie, 1993), relying partly on the reasoning of a recent decision of the U.S. Supreme Court upholding Tennessee's ban on electioneering within 100 feet of a polling place (Burson v. Freeman, 1992). The Petersilie court said the State has a compelling interest in protecting the integrity of the election process. It said the statute, though a limitation of freedom of expression, is narrowly tailored to serve the compelling interest.

The U.S. Supreme Court has already considered a California ordinance that banned all anonymous handbills and ruled it unconstitutionally overbroad. (Talley v. California, 1960.) The U.S. Supreme Court is now considering a challenge to an Ohio statute that bans all anonymous campaign literature. The Ohio ban on anonymity is narrower than the invalidated California ban. The North Carolina ban is narrower than either of them, so it might survive even if the U.S. Supreme Court rules against Ohio.

### Ads Calculated to Defeat a Candidate, Even If True, Signed, and Not Overtly Derogatory

1. North Carolina requires that any "media" ad that is for or against a candidate shall state on the ad that it is for or against that candidate. G.S. 163-278.16(f)(3). The statute seems to be aimed at the kind of ad that appears to promote a candidate but in fact is intended to make that candidate look bad and is sponsored by an opponent (e.g., "Vote for X, the Pro-Liquor Candidate" shown to a prohibitionist audience.) This statute, however, does not cover handbills or leaflets, where such tactics have often been common, but only "media" ads. "Media" is defined to mean "broadcasting stations, carrier current stations, newspapers, magazines, periodicals, outdoor advertising facilities, billboards, and newspaper inserts."
2. The constitutional questions of this statute are similar to those discussed in Petersilie and in the pending Ohio case. But, in addition, there are the

questions of State regulation of federally regulated FCC licensees. A federal circuit court has held that a State may impose requirements additional to the FCC requirements in ads concerning State elections, but not federal elections (KVUE v. Moore, 5th Cir., 1983.)

#### Derogatory, Last-Minute Ads, Even if True and Signed

1. North Carolina does not prohibit derogatory ads that are published so late in a campaign that the opponent does not have a chance to respond, unless the ad is either anonymous or a lie published with "actual malice."
2. The constitutionality of prohibiting derogatory, last-minute, true, signed ads is extremely questionable. In Mills v. Alabama, 1966, the U.S. Supreme Court invalidated a statute that prohibited solicitation on election day on behalf of or against a candidate or ballot measure. The statute had been enforced against a newspaper editor who wrote an election-day editorial in favor of a ballot proposition to change the form of city government. But the court said the whole statute was unconstitutional on its face, regardless of how it was enforced. Perhaps an argument could be made that a narrower statute, banning only negative ads on election day, is justified by the state's interest in protecting the integrity of the election process. But probably not.

One reality about the signature requirement for an ad is that the requirement may often be met with an uninformative credit such as "Paid for by Citizens for Good Government, John Jones, Treasurer." The truth-in-labeling statute for political committees deals only with those that have a parent entity that is a business, union, or association and those that represent an identifiable economic interest. G.S. 163-278.7(b)(1).

**Law Review Articles:**

Litman, *Measuring Divestiture of Network-Owned Television Stations: An Econometric Approach*. 25 *Antitrust Bull* 363, Summer, 1980.

Hartnick, *Network Blanket License Triumphant: The Fourth Round of the ASCAP-BMI-CBS (Broadcast Music, Inc. v Columbia Broadcasting Syst., Inc. 441 US 1, 60 L Ed 2d 1, 99 S Ct 1551) Litigation*. 2 *Com & L* 49, Fall, 1980.

*Media Cross-Ownership: National Citizens Committee for Broadcasting v FCC (FCC v National Citizens Comm. for Broadcasting, 436 US 775, 56 L Ed 2d 697, 98 S Ct 2096)*. 2 *Comm/Ent* 545, Spring, 1980.

*Media Cross-Ownership, Effective Enforcement of the Antitrust Laws, and the FTC*. 32 *Fed Com L J* 105, Winter, 1980.

**INTERPRETIVE NOTES AND DECISIONS**

1. Competition
2. —Effect on applications
3. Common ownership or control

**1. Competition**

In proceedings on application of carrier for permit to establish radiotelegraph service between United States and certain foreign countries in competition with other carriers, Federal Communications Commission is not required to make specific findings of tangible public benefit, but it must at least warrant that competition would serve some beneficial purpose such as maintaining good service and improving it. *Federal Communications Com. v RCA Communications, Inc.* (1953) 346 US 86, 97 L Ed 1470, 73 S Ct 998.

Station's policy of refusing advertising from viewers located outside immediate vicinity of station operates to restrain and inhibit trade and competition in violation of 47 USCS § 314. *Re E. O. Roden & Associates, Inc.* (1968) 12 FCC2d 274.

Licenses or licensee-owned sales organization, operating station in market, may not represent another station in same market in same service, even though stations employ different formats, since multiple representation is act in restraint of competition in violation of 47 USCS § 314. *Re Combination Advertising Rates* (1975) 51 FCC2d 679.

**2. —Effect on applications**

While competition is relevant factor in determining whether application to Federal Commu-

sions Commission for license should be granted, and while, in reaching conclusion that duplicating authorizations are in public interest wherever competition is reasonably feasible, Commission is not required to make specific findings of tangible benefit, it should find that there is ground for reasonable expectation that competition will serve some beneficial purpose. *Federal Communications Com. v RCA Communications, Inc.* (1953) 346 US 86, 97 L Ed 1470, 73 S Ct 998.

Applicant waives comparative hearing where it accepts grant of license subject to future modification as result of pending application by another station. *Beaumont Broadcasting Corp. v Federal Communications Com.* (1952) 91 App DC 111, 202 F2d 306.

**3. Common ownership or control**

47 USCS § 314 prohibits common ownership or control of cable and radio facilities if purpose or effect thereof is to substantially lessen competition between any place in United States and any place in any foreign country or unlawfully to create monopoly in any line of commerce. *Re Sports Network, Inc.* (1966) 3 FCC2d 618.

Federal Communications Commission may consider media penetration from newspapers and broadcast stations, located in nearby large cities, into particular market where issue involves common ownership or control of newspapers and broadcast stations in same communities in furtherance of creation of monopoly. *Re United Broadcasting, Inc.* (1972) 36 FCC2d 695.

**§ 315. Candidates for public office**

(a) Equal opportunities requirement; censorship prohibition; allowance of station use; news appearances exception; public interest; public issues

discussion opportunities. If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: Provided, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is imposed under this subsection upon any licensee to allow the use of its station by any such candidate. Appearance by a legally qualified candidate on any—

- (1) bona fide newscast,
- (2) bona fide news interview,
- (3) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or
- (4) on-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

(b) Broadcast media rates. The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office shall not exceed—

- (1) during the forty-five days preceding the date of a primary or primary runoff election and during the sixty days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and
- (2) at any other time, the charges made for comparable use of such station by other users thereof.

(c) Definitions. For purposes of this section—

- (1) the term "broadcasting station" includes a community antenna television system; and
- (2) the terms "licensee" and "station licensee" when used with respect to a community antenna television system mean the operator of such system.

(d) Rules and regulations. The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

(June 19, 1934, ch 652, Title III, Part I, § 315, 48 Stat. 1088; May 20, 1937, ch 229, § 10(a), 50 Stat. 192; July 16, 1952, ch 879, § 11, 66 Stat. 717; Sept. 14, 1959, P. L. 86-274, § 1, 73 Stat. 557; Feb. 7, 1972, P. L. 92-

**§ 163-274. (See editor's note) Certain acts declared misdemeanors.**

Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this section to be unlawful, shall be guilty of a Class 2 misdemeanor. It shall be unlawful:

- (1) For any person to fail, as an officer or as a judge or chief judge of a primary or election, or as a member of any board of elections, to prepare the books, ballots, and return blanks which it is his duty under the law to prepare, or to distribute the same as required by law, or to perform any other duty imposed upon him within the time and in the manner required by law;
- (2) For any person to continue or attempt to act as a judge or chief judge of a primary or election, or as a member of any board of elections, after having been legally removed from such position and after having been given notice of such removal;
- (3) For any person to break up or by force or violence to stay or interfere with the holding of any primary or election, to interfere with the possession of any ballot box, election book, ballot, or return sheet by those entitled to possession of the same under the law, or to interfere in any manner with the performance of any duty imposed by law upon any election officer or member of any board of elections;
- (4) For any person to be guilty of any boisterous conduct so as to disturb any member of any election board or any chief judge or judge of election in the performance of his duties as imposed by law;
- (5) For any person to bet or wager any money or other thing of value on any election;
- (5a) For any person to be a witness under G.S. 163-231(a) or G.S. 163-250(a) in any primary or election in which the person is a candidate for nomination or election;
- (6) For any person, directly or indirectly, to discharge or threaten to discharge from employment, or otherwise intimidate or oppose any legally qualified voter on account of any vote such voter may cast or consider or intend to cast, or not to cast, or which he may have failed to cast;
- (7) For any person to publish in a newspaper or pamphlet or otherwise, any charge derogatory to any candidate or calculated to affect the candidate's chances of nomination or election, unless such publication be signed by the party giving publicity to and being responsible for such charge;
- (8) For any person to publish or cause to be circulated derogatory reports with reference to any candidate in any primary or election, knowing such report to be false or in reckless disregard of its truth or falsity, when such report is calculated or intended to affect the chances of such candidate for nomination or election;
- (9) For any person to give or promise, in return for political support or influence, any political appointment or support for political office;
- (10) For any chairman of a county board of elections or other returning officer to fail or neglect, willfully or of malice, to perform any duty, act, matter or thing required or directed in the time, manner and form in which said duty, matter or thing is required to be performed in relation to any primary, general or special election and the returns thereof;
- (11) For any clerk of the superior court to refuse to make and give to any person applying in writing for the same a duly certified copy of the returns of any primary or election or of a tabulated statement to a primary or election, the returns of which are by law deposited in his office, upon the tender of the fees therefor;
- (12) For any person willfully and knowingly to impose upon any blind or illiterate voter a ballot in any primary or election contrary to the wish or desire of such voter, by falsely representing to such voter that the ballot proposed to him is such as he desires; or
- (13) Except as authorized by G.S. 163-72.2(b), for any person to provide false information, or sign the name of any other person, to a written report under G.S. 163-72.2. (1931, c. 348, s. 9; 1951, c. 983, s. 1; 1967, c. 775, s. 1; 1979, c. 135, s. 3; 1987, c. 565, s. 13; c. 583, s. 9; 1993, c. 539, s. 1112; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 762, ss. 58(a)-(c).)

Editor's Note. — G.S. 163-72.2, referred to above, has been repealed.

Session Laws 1993, c. 539, which amended this section, in a. 1359, as amended by Session Laws 1994, Extra Session, c. 24, s. 14(c), provides: "This act becomes effective October 1, 1994, and applies to offenses occurring on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to these prosecutions."

Chapter 24, section 14 of the North Carolina Extra Session amended the effective date provisions of Chapter 535, section 56 and Chapter 539, section 1359 of the 1993 Session Laws by changing the effective date of the changes made by those chapters from January 1, 1995 to October 1, 1994.

Session Laws 1993 (Reg. Sess., 1994), c. 762, s. 61, effective January 1, 1995, provides: "Any person who on December 31, 1994, was a registrar under G.S.

163-41 shall be a chief judge under G.S. 163-41."

Session Laws 1993 (Reg. Sess., 1994), c. 762, s. 73 provides, in part: "Prosecutions for, or sentences based on, offenses occurring before the effective date of any section of this act are not abated or affected by this act and the statutes that would be applicable to these prosecutions or sentences of this act remain applicable to these prosecutions or sentences."

Effect of Amendments. — The 1993 amendment, effective October 1, 1994, and applicable to offenses occurring on or after that date, inserted "Class 2" preceding "misdemeanor" in the first sentence.

The 1993 (Reg. Sess., 1994) amendment, effective January 1, 1995, and applicable to all primaries and elections occurring on or after that date, and applicable to offenses committed on or after January 1, 1995, substituted "chief judge" for "registrar" in subdivisions (1), (2), and (4).

**CASE NOTES**

Free Speech Guarantees Not Violated. — Subdivision (7), prohibiting anonymous, derogatory charges against candidates for primary or general elections, does not violate the free speech

guarantee of U.S. Const., Amend. I or N.C. Const., Art. I, § 14. *State v. Peterlin*, 334 N.C. 169, 432 S.E.2d 832 (1993).

**§ 163-278.16. Regulations regarding contributions, expenditures and media advertising.**

(a) Except as provided in G.S. 163-278.12, no contribution may be received or expenditure made by or on behalf of a candidate, political committee, or referendum committee:

- (1) Until the candidate, political committee, or referendum committee appoints a treasurer and certifies the name and address of the treasurer to the Board; and
- (2) Unless the contribution is received or the expenditure made by or through the treasurer of the candidate, political committee, or referendum committee.

(b) to (e) Repealed by Session Laws 1975, c. 565, s. 2.

(f) No media advertisement of any kind may be made by a treasurer, candidate, political committee, referendum committee or individual unless

- (1) It bears the legend or includes the statement: "Paid for by (or Sponsored by) ..... (Name of candidate, political committee, referendum committee, individual)";
- (2) The name used in the labeling required in subdivision (1) of this subsection is the name that appears on the statement of organization as required in G.S. 163-278.7(b)(1), provided that this subdivision applies only if the sponsor is a political committee or referendum committee;
- (3) The sponsor states in the media advertisement its position:
  - a. For or against the candidate; or
  - b. For or against an opposing candidateprovided that this subdivision applies only if the media advertisement is made for or against a candidate; and
- (4) The sponsor states in the media advertisement its position for or against the ballot measure; provided this subdivision applies only if the media advertisement is made for or against a ballot measure.

The requirements of subdivisions (3) and (4) of this subsection do not apply to any print advertisement less than two inches by two inches in size, or to any radio or television advertisement of less than 20 seconds in length.

The media shall not publish or broadcast any political advertisement unless it bears the legend or includes the statement required herein. For purposes of this subsection, "media" means broadcasting stations, carrier current stations, newspapers, magazines, periodicals, outdoor advertising facilities, billboards, and newspaper inserts. (1973, c. 1272, s. 1; 1975, c. 565, s. 2; 1979, c. 500, s. 4; c. 1073, ss. 19, 20; 1987, c. 652.)

## § 163-278.7. Appointment of political treasurers.

(a) Each candidate, political committee, and referendum committee shall appoint a treasurer and, under verification, report the name and address of the treasurer to the Board. A candidate may appoint himself or any other individual, including any relative except his spouse, as his treasurer, and, upon failure to file report designating a treasurer, the candidate shall be concluded to have appointed himself as treasurer and shall be required to personally fulfill the duties and responsibilities imposed upon the appointed treasurer and subject to the penalties and sanctions hereinafter provided.

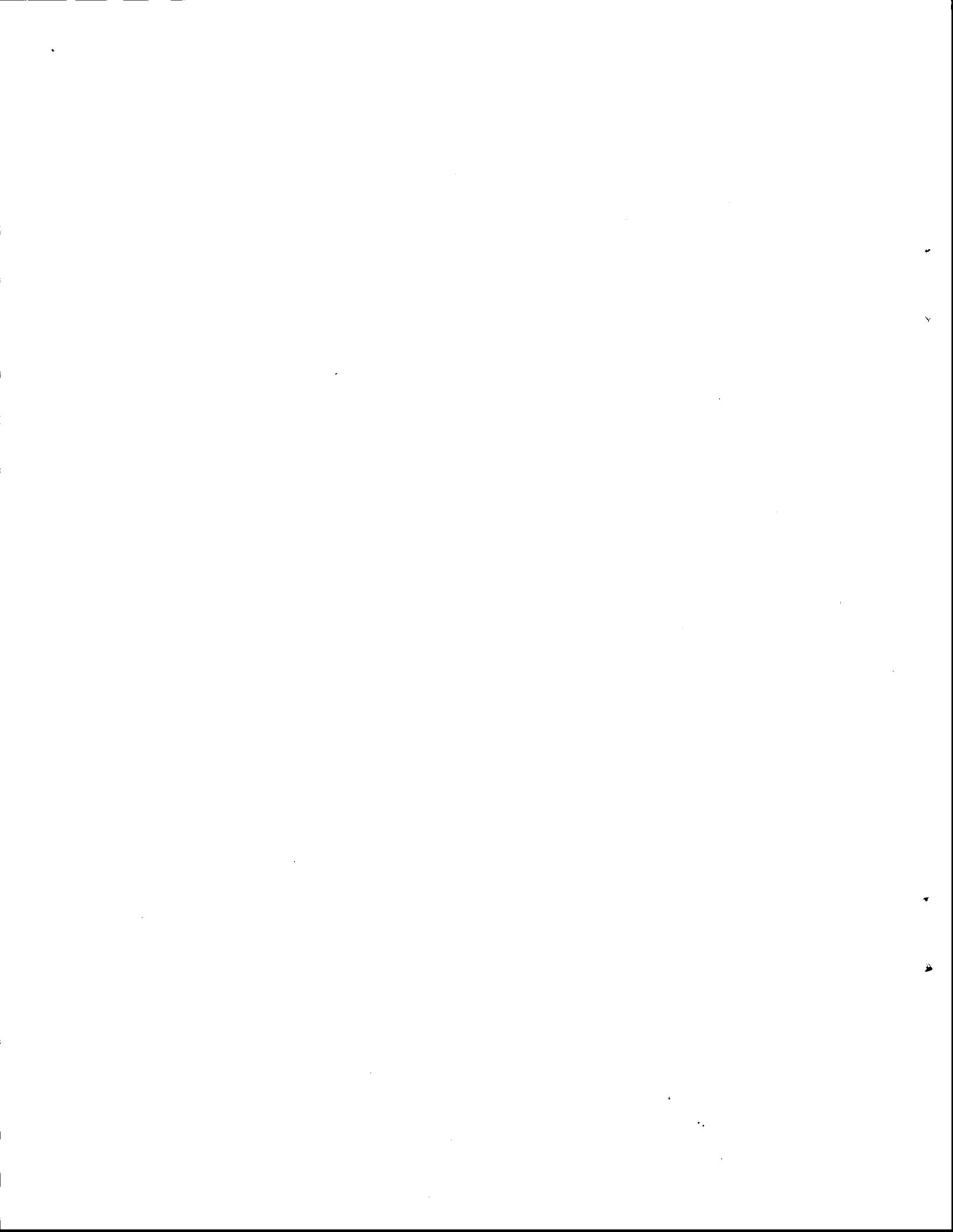
(b) Each appointed treasurer shall file with the Board at the time required by G.S. 163-278.9(a)(1) a statement of organization that includes:

- (1) The Name, Address and Purpose of the Candidate, Political Committee, or Referendum Committee. — When the political committee or referendum committee is created pursuant to G.S. 163-278.19(b), the name shall be or include the name of the corporation, insurance company, business entity, labor union or professional association whose officials, employees, or members established the committee. When the political committee or referendum committee is not created pursuant to G.S. 163-278.19(b), the name shall be or include the economic interest, if identifiable, principally represented by the committee's organizers or intended to be advanced by use of the committee's receipts.
- (2) The names, addresses, and relationships of affiliated or connected candidates, political committees, referendum committees, political parties, or similar organizations;
- (3) The territorial area, scope, or jurisdiction of the candidate, political committee, or referendum committee;
- (4) The name, address, and position with the candidate or political committee of the custodian of books and accounts;
- (5) The name and party affiliation of the candidate(s) whom the committee is supporting or opposing, and the office(s) involved;
- (5a) The name of the referendum(s) which the referendum committee is supporting or opposing, and whether the committee is supporting or opposing the referendum;
- (6) The name of the political committee or political party being supported or opposed if the committee is supporting the ticket of a particular political or political party;
- (7) A listing of all banks, safety deposit boxes, or other depositories used, including the names and numbers of all accounts maintained and the numbers of all such safety deposit boxes used;
- (8) The name or names and address or addresses of any assistant treasurers appointed by the treasurer. Such assistant treasurers shall be authorized to act in the name of the treasurer, who shall be fully responsible for any act or acts committed by an assistant treasurer, and the treasurer shall be fully liable for any violation of this Article committed by any assistant treasurer; and
- (9) Any other information which might be requested by the Board that deals with the campaign organization of the candidate or referendum committee.

(c) Any change in information previously submitted in a statement of organization shall be reported to the Board within a 10-day period following the change.

(d) A candidate, political committee or referendum committee may remove his or its treasurer. In case of the death, resignation or removal of his or its treasurer before compliance with all obligations of a treasurer under this Article, such candidate, political committee or referendum committee shall appoint a successor within 10 days of the vacancy of such office, and certify the name and address of the successor in the manner provided in the case of an original appointment. (1973, c. 1272, s. 1; 1979, c. 500, s. 2; c. 1073, ss. 4, 5, 16, 18, 20; 1987, c. 113, s. 1.)

### CASE NOTES



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

95-RR-001

THIS IS A DRAFT 20-JAN-95 17:17:28

Short Title: Voter Reg. Cleanup.

(Public)

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Sponsors: Representative/Senator

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO MAKE TECHNICAL CORRECTIONS IN VOTER-REGISTRATION LAWS  
3     AND OTHER ELECTION LAWS.  
4 The General Assembly of North Carolina enacts:  
5             Section 1. G.S. 163-22(e) reads as rewritten:  
6     "(e) The State Board of Elections shall determine, in the  
7 manner provided by law, the form and content of ballots,  
8 instruction sheets, pollbooks, talley sheets, abstract and return  
9 forms, certificates of election, and other forms to be used in  
10 primaries and elections. The Board shall furnish to the county  
11 ~~and municipal~~ boards of elections the registration application  
12 forms required pursuant to G.S. ~~163-67~~ 163-82.3. The State  
13 Board of Elections shall direct the county boards of elections to  
14 purchase a sufficient quantity of all forms attendant to the  
15 registration and elections process. In addition, the State Board  
16 shall provide a source of supply from which the county boards of  
17 elections may purchase the quantity of pollbooks needed for the  
18 execution of its responsibilities. In the preparation of ballots,  
19 pollbooks, abstract and return forms, and all other forms, the  
20 State Board of Elections may call to its aid the Attorney General  
21 of the State, and it shall be the duty of the Attorney General to  
22 advise and aid in the preparation of these books, ballots and  
23 forms."

1           Sec. 2. Article 4 of Chapter 163 of the General  
2 Statutes is amended by adding a new section to read:

3       "§ 163-37. Duty of County Board of Commissioners.

4       The respective boards of county commissioners shall appropriate  
5 reasonable and adequate funds necessary for the legal functions  
6 of the county board of elections, including reasonable and just  
7 compensation of the supervisor of elections."

8           Sec. 3. Article 12 of Chapter 163 of the General  
9 Statutes is amended by adding a new section to read:

10       "§ 163-131. Accessible polling places.

11       (a) The State Board of Elections shall promulgate rules to  
12 assure that any disabled or elderly voter assigned to an  
13 inaccessible polling place, upon advance request of such voter,  
14 will be assigned to an accessible polling place. Such rules  
15 should allow the request to be made in advance of the day of the  
16 election.

17       (b) Words in this section have the meanings prescribed by P.L.  
18 98-435, except that the term 'disabled' in this section has the  
19 same meaning as 'handicapped' in P.L. 98-435."

20           Sec. 4. G.S. 163-213.2 reads as rewritten:

21       "§ 163-213.2. Primary to be held; date; qualifications and  
22 registration of voters.

23       On the Tuesday after the first Monday in May, 1992, and every  
24 four years thereafter, the voters of this State shall be given an  
25 opportunity to express their preference for the person to be the  
26 presidential candidate of their political party.

27       Any person otherwise qualified who will become qualified by age  
28 to vote in the general election held in the same year of the  
29 presidential preference primary shall be entitled to register and  
30 vote in the presidential preference primary. Such persons may  
31 register not earlier than 60 days nor later than the last day for  
32 making application to register under G.S. ~~163-67~~ 163-82.6 prior  
33 to the said primary. In addition, persons who will become  
34 qualified by age to register and vote in the general election for  
35 which the primary is held, who do not register during the special  
36 period may register to vote after such period as if they were  
37 qualified on the basis of age, but until they are qualified by  
38 age to vote, they may vote only in primary elections."

39           Sec. 5. G.S. 163-227.2(f) reads as rewritten:

40       "§ 163-227.2. Alternate procedures for requesting application  
41 for absentee ballot; "one-stop" voting procedure in board office.

42       (a) A person expecting to be absent from the county in which he  
43 is registered during the entire period that the polls are open on  
44 the day of an election in which absentee ballots are authorized

1 or is eligible under G.S. 163-226(a)(2) or 163-226(a)(4) may  
2 request an application for absentee ballots, complete the  
3 application, receive the absentee ballots, vote and deliver them  
4 sealed in a container-return envelope to the county board of  
5 elections in the county in which he is registered under the  
6 provisions of this section.

7 (b) Not earlier than the ~~twenty-fourth day~~ first business day  
8 after the twenty-fifth day before an election, in which absentee  
9 ballots are authorized, in which he seeks to vote and not later  
10 than 5:00 P.M. on the Friday prior to that election, the voter  
11 shall appear in person only at the office of the county board of  
12 elections and request that the chairman, a member, or the  
13 supervisor of elections of the board, or an employee of the board  
14 of elections, authorized by the board, furnish him with an  
15 application form as specified in G.S. 163-227. The voter shall  
16 complete the application in the presence of the chairman, member,  
17 supervisor of elections or authorized employee of the board, and  
18 shall deliver the application to that person.

19 (c) If the application is properly filled out, the chairman,  
20 member, supervisor of elections of the board, or employee of the  
21 board of elections, authorized by the board, shall enter the  
22 voter's name in the register of absentee ballot applications and  
23 ballots issued; shall furnish the voter with the instruction  
24 sheets called for by G.S. 163-229(c); shall furnish the voter  
25 with the ballots to which the application for absentee ballots  
26 applies; and shall furnish the voter with a container-return  
27 envelope. The voter thereupon shall comply with the provisions of  
28 G.S. 163-231(a) except that he shall deliver the container-return  
29 envelope to the chairman, member, supervisor of elections of the  
30 board, or an employee of the board of elections, authorized by  
31 the board, immediately after making and subscribing the  
32 certificate printed on the container-return envelope as provided  
33 in G.S. 163-229(b). All actions required by this subsection shall  
34 be performed in the office of the board of elections. For the  
35 purposes of this section only, the chairman, member, supervisor  
36 of elections of the board, or full-time employee, authorized by  
37 the board shall sign the application and certificate as the  
38 witness and indicate the official title held by him or her.  
39 Notwithstanding G.S. 163-231(a), in the case of this subsection,  
40 only one witness shall be required on the certificate.

41 (d) Only the chairman, member or supervisor of elections of the  
42 board shall keep the voter's application for absentee ballots and  
43 the sealed container-return envelope in a safe place, separate  
44 and apart from other applications and container-return envelopes.

1 At the first meeting of the board pursuant to G.S. 163-230(2)  
2 held after receipt of the application and envelope, the chairman  
3 shall comply with the requirements of G.S. 163-230(1) and  
4 163-230(2) b. and c. If the voter's application for absentee  
5 ballots is approved by the board at that meeting, the application  
6 form and container-return envelope, with the ballots enclosed,  
7 shall be handled in the same manner and under the same provisions  
8 of law as applications and container-return envelopes received by  
9 the board under other provisions of this Article. If the voter's  
10 application for absentee ballots is disapproved by the board, the  
11 board shall so notify the voter stating the reason for  
12 disapproval by first-class mail addressed to the voter at his  
13 residence address or at the address shown in the application for  
14 absentee ballots; and the board chairman shall retain the  
15 container-return envelope in its unopened condition until the day  
16 of the primary or election to which it relates and on that day he  
17 shall destroy the container-return envelope and the ballots  
18 therein, without, however, revealing the manner in which the  
19 voter marked the ballots.

20 (e) The voter shall vote his absentee ballot in a voting booth  
21 and the county board of elections shall provide a voting booth  
22 for that purpose, provided however, that the county board of  
23 elections may in the alternative provide a private room for the  
24 voter adjacent to the office of the board, in which case the  
25 voter shall vote his absentee ballot in that room. The voting  
26 booth shall be in the office of the county board of elections. If  
27 the voter needs assistance in getting to and from the voting  
28 booth and in preparing and marking his ballots or if he is a  
29 blind voter, only a member of the county board of elections, the  
30 supervisor of elections, an employee of the board of elections  
31 authorized by the board, a near relative of the voter as defined  
32 in G.S. 163-227(c)(4), or the voter's legal guardian shall be  
33 entitled to assist the voter.

34 (f) Notwithstanding the exception specified in G.S. ~~163-116~~  
35 163-36 counties which operate a modified full-time office shall  
36 remain open five days each week during regular business hours  
37 consistent with daily hours presently observed by the county  
38 board of elections, commencing with the date prescribed in G.S.  
39 163-227.2(b) and continuing until 5:00 P.M. on the Friday prior  
40 to that election or primary. The boards of county commissioners  
41 shall provide necessary funds for the additional operation of the  
42 office during such time."

43 Sec. 6. G.S. 163-253 reads as rewritten:

1    "§ 163-253. Article inapplicable to persons after change of  
2 status; reregistration required.

3    Upon discharge from the armed forces of the United States or  
4 termination of any other status qualifying him to register and  
5 vote by absentee ballot under the provisions of this Article, the  
6 voter shall not be entitled to vote by military absentee ballot,  
7 and if he was registered under the provisions of this Article his  
8 registration shall become void and he shall be required to  
9 register under the provisions of Article ~~7~~ 7A before being  
10 entitled to vote in any primary or election."

11           Sec. 7. G.S. 163-254 reads as rewritten:

12    "§ 163-254. Registration and voting on primary or election day.  
13 Notwithstanding any other provisions of Chapter 163 of the  
14 General Statutes, any person entitled to vote an absentee ballot  
15 pursuant to G.S. 163-245 shall be permitted to register in person  
16 at any time including the day of a primary or election. Should  
17 such person's eligibility to register or vote as provided in G.S.  
18 163-245 terminate after the ~~registration records have closed~~  
19 25th day prior to a primary or election, such person, if he  
20 appears in person, shall be entitled to register if otherwise  
21 qualified ~~during the time the records are closed,~~ after the 25th  
22 day before the primary or election, or on the primary or election  
23 day, and shall be permitted to vote if such person is otherwise  
24 qualified."

25           Sec. 8. This act is effective upon ratification.

## SUMMARY OF LEGISLATIVE PROPOSAL I --

### VOTER REGISTRATION CLEANUP

Proposal I would correct errors made in drafting House Bill 1776 (Chapter 762 of the 1993 Session Laws), North Carolina's legislation to comply with the National Voter Registration Act of 1993 and to modernize voter-registration laws.

House Bill 1776 repealed Article 7 of Chapter 163 of the General Statutes, the Voter Registration Article, and replaced it with Article 7A.

The errors corrected include miscitations and outdated references that were missed in the first sweep through the statutes. Also corrected are the following notable oversights:

- \* The repeal without replacement of a sentence in G.S. 163-67(d) that gave county boards of commissioners the duty to "appropriate reasonable and adequate funds necessary for the legal functions of the county boards of elections, including reasonable and just compensation of the supervisor of elections." Section 2 of Proposal I recodifies that sentence in another part of the election law.
- \* The repeal without replacement of G.S. 163-69.2, which directs the State Board of Elections to comply with federal law to provide accessible voting places for the disabled. Section 3 of Proposal I recodified that section in another part of the election law.
- \* The failure to specify that One-Stop Absentee Voting begins on the next business day after the registration deadline, rather than the next day. If taken literally, House Bill 1776 would usually open One-Stop on a Saturday, which was not the intent of the legislation. Section 5 of Proposal I corrects the omission.

The corrections would become effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1995

H

D

HOUSE DRH8000-LBZ017F(1.1)

Short Title: Absentee Voting Revision.

(Public)

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Sponsors: Representatives Michaux, Lemmond, Luebke, and Church.

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO STREAMLINE, SIMPLIFY, AND MODERNIZE THE ABSENTEE  
3 VOTING LAWS, AND TO CONFORM TO FEDERAL LAWS ON ABSENTEE  
4 VOTING.

5 The General Assembly of North Carolina enacts:  
6 Section 1. Subchapter VII of Chapter 163 of the General Statutes reads  
7 as rewritten:

8  
9 "SUBCHAPTER VII. ABSENTEE VOTING.

10  
11 "ARTICLE 20.

12  
13 "Absentee Ballot.

14  
15 "§ 163-226. Who may vote an absentee ballot.

16 (a) Who May Vote Absentee Ballot; Generally. -- Any Except as provided by G.S.  
17 163-302 with respect to municipal elections, and except as provided by G.S. 163-  
18 82.7(g)(2) in the case where a person's voter registration notice has been returned by  
19 the Postal Service as undeliverable, any qualified voter of the State may vote by  
20 absentee ballot in a statewide primary, general, or special election on constitutional  
21 amendments, referenda or bond proposals, and any qualified voter of a county is  
22 authorized to may vote by absentee ballot in any primary or election conducted by  
23 the county board of elections, in the manner provided in this Article if:

24 (1) He The qualified voter expects not to be present at the voting  
25 place to vote in person be absent from the county in which he is

1 registered during the entire period that the polls are open on the  
 2 day of the specified election in which he the qualified voter desires  
 3 to vote; or

4 (2) ~~He~~ The qualified voter is unable to be present at the voting place  
 5 to vote in person on the day of the specified election in which he  
 6 the qualified voter desires to vote because of ~~his~~ the qualified  
 7 voter's sickness or other physical disability where such illness or  
 8 other physical disability arises after 5:00 p.m. on the Tuesday  
 9 preceding the election but before 12:00 noon on the day of the  
 10 specified election. ~~;~~ ~~or~~

11 (3) ~~He is incarcerated, whether in his county of residence or~~  
 12 ~~elsewhere, shall be entitled to vote by absentee ballot in the county~~  
 13 ~~of his residence in any election, specified herein, in which he~~  
 14 ~~otherwise would be entitled to vote. Absentee voting shall be in~~  
 15 ~~the same manner as provided in this Article. The chief custodian~~  
 16 ~~or superintendent of the institution or other place of confinement~~  
 17 ~~shall certify that the applicant is not a felon, and the certification~~  
 18 ~~shall be as prescribed by the State Board of Elections. The State~~  
 19 ~~Board of Elections is authorized to prescribe procedures to carry~~  
 20 ~~out the intent and purpose of this subsection;~~

21 (4) ~~He is an employee of the county board of elections and his~~  
 22 ~~assigned duties on the day of the election will cause him to be~~  
 23 ~~unable to be present at the voting place to vote in person and~~  
 24 ~~provided such employee has his application witnessed by the~~  
 25 ~~chairman of the county board of elections.~~

26 ~~(b) Absentee Ballots, Exceptions. Notwithstanding the authority contained in~~  
 27 ~~G.S. 163-226(a), absentee ballots shall not be permitted in fire district elections.~~

28 (c) As used in this Subchapter, unless the context clearly requires otherwise, the  
 29 term 'election' includes a general, primary, second primary, runoff, bond election,  
 30 referenda, or special election.

31 "§ 163-226.1. Absentee voting in primary.

32 A qualified voter may vote by absentee ballot in a ~~statewide or countywide~~  
 33 partisan primary provided he the qualified voter is affiliated, at the time he the  
 34 qualified voter makes application for absentee ballots, with the political party in  
 35 whose primary he the qualified voter wishes to ~~vote.~~ vote, except that an unaffiliated  
 36 voter may vote in a party primary if permitted under G.S. 163-116. The official  
 37 registration records of the county in which the voter is registered shall be proof of  
 38 whether he the qualified voter is affiliated with a political party and of the party, if  
 39 any, with which he the qualified voter is affiliated.

40 ~~"§ 163-226.2. Absentee voting in municipal elections.~~

41 ~~Absentee voting by qualified voters residing in a municipality shall be in accordance~~  
 42 ~~with the authorization specified in G.S. 163-302.~~

43 "§ 163-226.3. Certain acts declared felonies.

1 (a) Any person who shall, in connection with absentee voting in any ~~primary,~~  
2 ~~general, municipal or special~~ election held in this State, do any of the acts or things  
3 declared in this section to be unlawful, shall be guilty of a Class I felony. It shall be  
4 unlawful:

- 5 (1) For any person except the voter's near relative as defined in G.S.  
6 163-227(c)(4) or the voter's legal guardian to assist the voter to  
7 vote an absentee ballot when the voter is voting an absentee ballot  
8 other than under the procedure described in G.S. 163-227.2;  
9 provided that if there is not a near relative or legal guardian  
10 available to assist the voter, the voter may request some other  
11 person to give assistance;
- 12 (2) For any person to assist a voter to vote an absentee ballot under  
13 the absentee voting procedure authorized by G.S. 163-227.2 except  
14 a member of the county board of elections, the supervisor of  
15 elections, an employee of the board authorized by the board, the  
16 voter's near relative as defined in G.S. 163-227(c)(4), or the voter's  
17 legal guardian;
- 18 (3) For a voter who votes an absentee ballot under the procedures  
19 authorized by G.S. 163-227.2 to vote ~~his~~ that voter's absentee  
20 ballot outside of the voting booth or private room provided to ~~him~~  
21 the voter for that purpose in or adjacent to the office of the county  
22 board of elections or at the additional site provided by G.S. 163-  
23 227.2(f1), or to receive assistance in getting to and from the voting  
24 booth or private room and in preparing and marking ~~his~~ that  
25 voter's ballots from any person other than a member of the county  
26 board of elections, the supervisor of elections, an employee of the  
27 board of elections authorized by the board, a near relative of the  
28 voter as defined in G.S. 163-227(c)(4), or the voter's legal  
29 guardian;
- 30 (4) For any owner, manager, director, employee, or other person,  
31 other than the voter's near relative as defined in G.S. 163-227(c)(4)  
32 or legal guardian, to make application on behalf of a registered  
33 voter who is a patient in any hospital, clinic, nursing home or rest  
34 home in this State or for any owner, manager, director, employee,  
35 or other person other than the voter's near relative or legal  
36 guardian, ~~or officer authorized to administer oaths acting pursuant~~  
37 ~~to G.S. 163-231(a)(1)~~, to mark the voter's absentee ballot or assist  
38 such a voter in marking an absentee ballot;
- 39 (5) Repealed by Session Laws 1987, c. 583, s. 8.
- 40 (6) For any person to take into ~~his~~ that voter's possession for delivery  
41 to a voter or for return to a county board of elections the absentee  
42 ballot of any voter, provided, however, that this prohibition shall  
43 not apply to a voter's near relative as defined in G.S. 163-227(c)(4)  
44 or the voter's legal guardian;

1 (7) Except as provided in subsections (1), (2), (3), and (4) of this  
2 section, G.S. 163-231(a), G.S. 163-250(a), and G.S. 163-227.2(e),  
3 for any voter to permit another person to assist ~~him~~ the voter in  
4 marking ~~his~~ that voter's absentee ballot, to be in the voter's  
5 presence when a voter votes an absentee ballot, or to observe the  
6 voter mark ~~his~~ that voter's absentee ballot.

7 (b) The State Board of Elections or a county board of elections, upon receipt of a  
8 sworn affidavit from any qualified voter of the State or the county, as the case may  
9 be, attesting to first-person knowledge of any violation of subsection (a) of this  
10 section, shall transmit such affidavit to the appropriate district attorney, who shall  
11 investigate and prosecute any person violating subsection (a).

12 "§ 163-227. State Board to prescribe form of application for absentee ballots; county  
13 to secure.

14 (a) Applications for Absentee Ballots Generally. -- ~~A An eligible voter falling in~~  
15 ~~any one of the categories defined in G.S. 163-226, 163-226.1 or 163-226.2~~ may apply  
16 for absentee ballots not earlier than 50 days prior to the ~~statewide, county or~~  
17 ~~municipal~~ election in which ~~he~~ that eligible voter seeks to vote and not later than  
18 5:00 P.M. on the Tuesday before that ~~election.~~ election, except that applications  
19 under G.S. 163-227.2 shall be governed by that section and applications under G.S.  
20 163-226(a)(2) may be made not earlier than 5:00 p.m. on the Tuesday preceding the  
21 election and not later than 12:00 noon on election day. Subject to all other  
22 provisions contained in this Article, a voter applying for an absentee ~~ballot~~ ballot  
23 except under G.S. 163-227.2 shall complete the standard application form to be  
24 secured by the county board of elections, as designed and prescribed by the State  
25 Board of Elections. The form shall be printed on the container-return envelope  
26 transmitted to the voter along with the ballots. The form shall allow reporting of a  
27 change of name as provided by G.S. 163-82.16(d). The form shall contain lines to be  
28 checked off by each of the kinds of voters specified below:

29 (1) ~~A voter expecting to be absent from the county of his residence all~~  
30 ~~day expecting not to be present at the voting place to vote in~~  
31 ~~person~~ on the day of the specified election. (G.S. 163-226(a)(1)).

32 (2) A voter who is unable to be present at the voting place to vote in  
33 person on the day of the specified election because of ~~his~~ that  
34 voter's sickness or other physical disability occurring after 5:00  
35 p.m. on the Tuesday preceding the election but before 5:00 P.M.  
36 12:00 noon on the day prior to the date of the specified election.  
37 (G.S. 163-226(a)(2)).

38 (3) Repealed by Session Laws 1991, c. 727, s. 6.1.

39 (4) ~~A voter expecting to be absent from the county or due to~~  
40 ~~emergency disability will be unable to vote in person, or a person~~  
41 ~~who qualifies under G.S. 163-226(a)(4), and who, in lieu of making~~  
42 ~~application by mail, wishes to apply in person and receive a ballot~~  
43 ~~which he may immediately vote in the office of the county board~~  
44 ~~of elections.~~

1 (b) Types of Applications; Instructions. --

2 (1) ~~Expected Absence from County Not to Be Present at the Voting~~  
3 ~~Place on Election Day. -- A voter expected to be absent from the~~  
4 ~~county not be present at the voting place in which registered~~  
5 ~~during the entire period that the polls will be open on primary or~~  
6 ~~general election day, or a near relative, or verifiable legal guardian;~~  
7 ~~day shall make written application request for absentee ballots to~~  
8 ~~the chairman of the board of elections of the county in which the~~  
9 ~~voter is registered not earlier than 50 days nor later than 5:00 P.M.~~  
10 ~~on the Tuesday before the election. The application shall be~~  
11 ~~submitted in the form set out in this subdivision upon a copy the~~  
12 ~~container-return envelope which shall be furnished the voter or a~~  
13 ~~near relative by the chairman of the county board of elections.~~

14 ~~The applicant shall sign his application personally, or it shall~~  
15 ~~be signed by a near relative or verifiable legal guardian. The~~  
16 ~~application shall be signed by the voter personally. The application~~  
17 ~~shall be signed in the presence of a witness, who shall sign his~~  
18 ~~name in the place provided on the form. The application form~~  
19 ~~when properly filled out shall be transmitted by mail or delivered~~  
20 ~~in person by the applicant or a near relative to the chairman or the~~  
21 ~~supervisor of elections of the county board of elections.~~

22 (2) ~~Absence for Sickness or Physical Disability Occurring After 5:00~~  
23 ~~P.M. on the Tuesday Prior to the Election but before 5:00 P.M.~~  
24 ~~Before 12:00 Noon on the day prior to Day of the Primary or~~  
25 ~~General Election. -- A voter expecting to be unable to go to the~~  
26 ~~voting place to vote in person on primary or general election day~~  
27 ~~because of his that voter's sickness or other physical disability;~~  
28 ~~disability occurring after 5:00 p.m. on the Tuesday preceding the~~  
29 ~~election but before 12:00 noon on the day of the date of the~~  
30 ~~specified election or his near relative or verifiable legal guardian;~~  
31 ~~shall make written application request for absentee ballots to the~~  
32 ~~chairman of the board of elections of the county in which the voter~~  
33 ~~is registered not earlier than 50 days 5:00 p.m. on the Tuesday nor~~  
34 ~~later than 5:00 P.M. 12:00 noon on the day before of the election.~~  
35 ~~The application shall be submitted in the form set out in this~~  
36 ~~subdivision upon a copy the container-return envelope which shall~~  
37 ~~be furnished the voter or a near relative or verifiable legal~~  
38 ~~guardian by the chairman of the county board of elections.~~

39 ~~The application shall be signed by the voter personally, or it~~  
40 ~~shall be signed by a near relative or verifiable legal guardian.~~  
41 ~~personally. The application shall be signed in the presence of a~~  
42 ~~witness, who shall sign his name in the place provided on the form.~~

43 ~~The application form, when properly filled out, shall be~~  
44 ~~transmitted by mail or delivered in person by the applicant or a~~

1 ~~near relative or verifiable legal guardian to the chairman or~~  
2 ~~supervisor of elections of the county board of elections of the~~  
3 ~~county in which the applicant is registered.~~

4 (3) Repealed by Session Laws 1991, c. 727, s. 6.1.

5 (4) 'One-Stop' Voting Procedure, in Office of the County Board of  
6 Elections. -- A voter falling in the category specified in G.S.  
7 163-227.2 may execute an application form and proceed to vote ~~his~~  
8 that voter's absentee ballot in the office of the county board of  
9 elections only. The application shall be on a separate form  
10 prescribed by the State Board of Elections.

11 (c) Application Forms Issued by ~~Chairman~~ of County Board of Elections. -- The  
12 ~~chairman~~ of the county board of elections shall be sole custodian of all absentee  
13 ballot application forms, ~~but he, and the chairman, a member,~~ the secretary of the  
14 board ~~and~~ or the supervisor of elections or an employee of the board, in accordance  
15 with one of the following two procedures, shall issue and deliver a single application  
16 form, upon request, to ~~a person authorized to sign such an application~~ an eligible  
17 voter under the provisions of this section:

18 (1) The chairman, ~~secretary or member,~~ supervisor of elections or an  
19 employee of the board of elections may deliver the form to a voter  
20 personally ~~or to his near relative or verifiable legal guardian~~ at the  
21 office of the county board of elections for the voter's own use; or

22 (2) The chairman, ~~secretary or member,~~ supervisor of elections or an  
23 employee of the board of elections may mail the form to a voter  
24 for ~~his~~ that voter's own use upon receipt of a written request from  
25 the ~~voter or his near relative or verifiable legal guardian.~~ voter.

26 At the time ~~he issues~~ of issuance of an application form, the  
27 chairman, ~~secretary or member,~~ supervisor of elections or an  
28 employee of the county board of elections shall number it and  
29 write the name of the voter in the space provided therefor at the  
30 top of the form. At the same time the chairman, ~~secretary or~~  
31 ~~member,~~ supervisor of elections or an employee of the board of  
32 elections shall insert the name of the voter and the number  
33 assigned ~~his~~ that voter's application in the register of absentee  
34 ballot applications and ballots issued provided for in G.S. 163-228.  
35 ~~If the application is requested by the voter's near relative, or~~  
36 ~~verifiable legal guardian, the chairman, secretary or supervisor of~~  
37 ~~elections also shall insert that person's name in the register after~~  
38 ~~the name of the voter.~~

39 The chairman, ~~secretary or member,~~ supervisor of elections or  
40 an employee of the board of elections shall issue only one  
41 application form to a voter ~~or his near relative or verifiable legal~~  
42 ~~guardian~~ unless a form previously issued is returned to the  
43 chairman, ~~secretary or member, secretary,~~ supervisor of elections  
44 or an employee of the board of elections and marked 'Void' by

- 1 ~~him. that person or unless the applicant certifies that the~~  
2 ~~application has been lost or never received.~~ In such a situation, the  
3 ~~chairman, secretary or member, secretary, supervisor of elections~~  
4 ~~or an employee of the board of elections~~ may issue another  
5 application form to the voter ~~or a near relative or verifiable legal~~  
6 ~~guardian, but he shall retain the voided application form or the~~  
7 ~~certificate~~ in the board's records. ~~If the application is requested by~~  
8 ~~the voter's near relative or verifiable legal guardian, the chairman,~~  
9 ~~secretary or supervisor of elections shall write the name of the near~~  
10 ~~relative or verifiable legal guardian on the index of near relatives~~  
11 ~~or verifiable legal guardians, applying for applications for absentee~~  
12 ~~ballots; the index shall be in such form as may be prescribed or~~  
13 ~~approved by the State Board of Elections; a separate index shall be~~  
14 ~~maintained for each primary, general or special election in which~~  
15 ~~absentee voting is allowed.~~
- 16 (3) ~~Applications or Absentee Ballots Requests for Application~~  
17 ~~Transmitted by Mail Mail, Fax, or in Person. -- An A request for~~  
18 ~~application for absentee ballots shall be made and signed only by~~  
19 ~~the voter desiring to use them or the voter's near relative or~~  
20 ~~verifiable legal guardian and shall be valid only when transmitted~~  
21 ~~to the chairman or supervisor of elections of the county board of~~  
22 ~~elections by mail mail, by fax, or delivered in person by the voter~~  
23 ~~or his the voter's near relative or legal verifiable guardian.~~
- 24 (4) ~~Who Is Authorized to Request Applications for Absentee Ballots.~~  
25 ~~-- A voter may personally request an application for absentee~~  
26 ~~ballots or may cause such request to be made through a near~~  
27 ~~relative or verifiable legal guardian. ballots. A near relative of the~~  
28 ~~person may request for that person an application under G.S. 163-~~  
29 ~~230.1(d). For the purpose of this Article, 'near relative' means~~  
30 ~~spouse, brother, sister, parent, grandparent, child, or grandchild.~~
- 31 (5) ~~The form of application for persons applying to vote in a primary~~  
32 ~~under the provisions of this section shall be as designed and~~  
33 ~~prescribed by the State Board of Elections. No voter shall be~~  
34 ~~furnished ballots for voting in a primary except the ballots for~~  
35 ~~candidates for nomination in the primary of the political party with~~  
36 ~~which he is affiliated at the time he makes application for absentee~~  
37 ~~ballots. The official registration records of the county in which the~~  
38 ~~voter is registered shall be proof of the party, if any, with which~~  
39 ~~the voter is affiliated.~~
- 40 (6) ~~The county board of elections shall cause to be stamped or printed~~  
41 ~~on the face of each application for absentee ballots the following~~  
42 ~~legend, and the blank space in the legend to be completed:~~  
43 ~~'This application is issued for absentee ballots to be voted in the~~  
44 ~~\_\_\_\_\_ (primary or general or special election) to be~~

held in \_\_\_\_\_ County on the  
 \_\_\_\_\_ day of \_\_\_\_\_, 19  
 \_\_\_\_\_. The county board of elections shall not issue any  
 absentee ballots on the basis of any application that does not bear  
 the completed legend.

(7) ~~No applications shall be issued earlier than 50 days prior to the  
 election in which the voter wishes to vote. Nothing herein shall  
 prohibit the~~ The county board of elections from receiving may  
 receive written requests for applications earlier than 50 days prior  
 to the election but ~~such applications~~ applications and ballots shall  
 not be mailed or issued to the voter in person earlier than 50 days  
 prior to the election. except as provided in G.S. 163-227.2.

(8) ~~Applications for absentee ballots shall be issued only by mail or in  
 the office of the county board of elections to the voter or a near  
 relative or verifiable legal guardian authorized to make  
 application. No election official shall issue applications for  
 absentee ballots except in compliance with the provisions stated  
 herein.~~

(9) If the voter has a physical disability or condition which  
 substantially impairs that voter's ability to go to the polling place  
 to vote, the voter may request an absentee ballot for all the  
 primaries and elections held during the calendar year in which the  
 request is received by the board of elections. The request must  
 include a description of the physical disability or condition.

"§ 163-227.1. **Second primary; applications for absentee ballots for voting in second  
 primary.**

A voter applying for an absentee ballot for a primary election who will be absent  
~~from the county of his residence~~ eligible to vote under this Article on the day of the  
 primary and second primary shall be permitted by the county board of elections to  
 indicate such fact on ~~his~~ that voter's application and such voter shall automatically be  
 issued an application and absentee ballot for the second primary if one is called. The  
 county board of elections shall consider such indication a separate request for  
 application for the second primary and, at the proper time, shall enter such voter's  
 name in the absentee register along with the listing of other applicants for absentee  
 ballots for the second primary.

In addition, a voter entitled to absentee ballots under the provisions of this Article  
 who did not make application for the ~~primary~~ primary, does not have a continuing  
application for the calendar year under G.S. 163-227(c)(8), or who failed to apply for  
 a second primary ballot at the time of application for a first primary ballot may apply  
 for absentee ballots for a second primary not earlier than the day a second primary is  
 called and not later than ~~5:00 P.M. on the Tuesday prior to the date on which the~~  
~~second primary is held.~~ the date and time provided by G.S. 163-227.

1 All procedures with respect to absentee ballots in a second primary shall be the  
2 same as with respect to absentee ballots in a first primary except as otherwise  
3 provided by this section.

4 "§ 163-227.2. Alternate procedures for requesting application for absentee ballot;  
5 'one-stop' voting procedure in board office.

6 (a) A person expecting to ~~be absent from the county~~ not be present at the polling  
7 place in which ~~he~~ that person is registered during the entire period that the polls are  
8 open on the day of an election in which absentee ballots are authorized ~~or is eligible~~  
9 ~~under G.S. 163-226(a)(2) or 163-226(a)(4)~~ may request an application for absentee  
10 ballots, complete the application, ~~receive the absentee ballots, vote and deliver them~~  
11 ~~sealed in a container return envelope to the county board of elections in the county~~  
12 ~~in which he is registered~~ and vote under the provisions of this section.

13 (b) Not earlier than the ~~twenty-fourth day~~ first business day after the twenty-fifth  
14 day before an election, in which absentee ballots are authorized, in which ~~he~~ a voter  
15 seeks to vote and not later than 5:00 P.M. on the Friday prior to that election, the  
16 voter shall appear in person only at the office of the county board of elections and  
17 request that the chairman, a member, or the supervisor of elections of the board, or  
18 an employee of the board of elections, authorized by the board, ~~furnish him~~ the voter  
19 with an application form as specified in G.S. 163-227. The voter shall complete the  
20 application in the presence of the chairman, member, supervisor of elections or  
21 authorized employee of the board, and shall deliver the application to that person.

22 (c) If the application is properly filled out, the chairman, member, supervisor of  
23 elections of the board, or employee of the board of elections, authorized by the  
24 board, shall enter the voter's name in the register of absentee ballot applications and  
25 ballots issued; shall furnish the voter with the instruction sheets called for by G.S.  
26 163-229(c); and shall furnish the voter with the ballots to which the application for  
27 absentee ballots ~~applies~~ and shall furnish the voter with a container return envelope  
28 applies. The voter thereupon shall ~~comply with the provisions of G.S. 163-231(a)~~  
29 ~~except that he shall deliver the container return envelope to the chairman, member,~~  
30 ~~supervisor of elections of the board, or an employee of the board of elections,~~  
31 ~~authorized by the board, immediately after making and subscribing the certificate~~  
32 ~~printed on the container return envelope as provided in G.S. 163-229(b).~~ vote in  
33 accordance with subsection (e) of this section.

34 All actions required by this subsection shall be performed in the office of the board  
35 of elections: except that the voting may take place in an adjacent room as provided  
36 by subsection (e) of this section. ~~For the purposes of this section only, the~~ The  
37 application under this subsection shall be signed in the presence of the chairman,  
38 member, supervisor of elections of the board, or full-time employee, authorized by  
39 the board who shall sign the application and certificate as the witness and indicate  
40 the official title held by him or her. Notwithstanding G.S. 163-231(a), in the case of  
41 this subsection, only one witness shall be required on the certificate.

42 (d) Only the chairman, ~~member~~ member, employee, or supervisor of elections of  
43 the board shall keep the voter's application for absentee ballots ~~and the sealed~~  
44 ~~container return envelope~~ in a safe place, separate and apart from other applications

1 and container-return envelopes. ~~At the first meeting of the board pursuant to G.S.~~  
2 ~~163-230(2) held after receipt of the application and envelope, the chairman shall~~  
3 ~~comply with the requirements of G.S. 163-230(1) and 163-230(2) b. and c. If the~~  
4 ~~voter's application for absentee ballots is approved by the board at that meeting, the~~  
5 ~~application form and container return envelope, with the ballots enclosed, shall be~~  
6 ~~handled in the same manner and under the same provisions of law as applications~~  
7 ~~and container return envelopes received by the board under other provisions of this~~  
8 ~~Article. If the voter's application for absentee ballots is disapproved by the board, the~~  
9 board shall so notify the voter stating the reason for disapproval by first-class mail  
10 addressed to the voter at ~~his~~ that voter's residence address ~~or~~ and at the address  
11 shown in the application for absentee ballots; and the board ~~chairman~~ shall retain the  
12 ~~container return envelope in its unopened condition until the day of the primary or~~  
13 ~~election to which it relates and on that day he shall destroy the container return~~  
14 ~~envelope and the ballots therein, without, however, revealing the manner in which~~  
15 ~~the voter marked the ballots. enter a challenge under G.S. 163-89.~~

16 (e) The voter shall vote ~~his~~ that voter's absentee ballot in a voting booth in the  
17 office of the county board of elections and the county board of elections shall provide  
18 a voting booth for that purpose, provided however, that the county board of elections  
19 may in the alternative provide a private room for the voter adjacent to the office of  
20 the board, in which case the voter shall vote ~~his~~ that voter's absentee ballot in that  
21 room. ~~The voting booth shall be in the office of the county board of elections. If the~~  
22 voter needs assistance in getting to and from the voting booth and in preparing and  
23 marking ~~his~~ that voter's ballots or if ~~he~~ the voter is a blind voter, only a member of  
24 the county board of elections, the supervisor of elections, an employee of the board  
25 of elections authorized by the board, a near relative of the voter as defined in G.S.  
26 163-227(c)(4), or the voter's legal guardian shall be entitled to assist the voter. The  
27 ballot shall be a paper ballot or a voting system in which a paper ballot is counted by  
28 computer or mechanical device. The ballot in any case shall have the ballot number  
29 on it in accordance with G.S. 163-230(3)a. After the voter casts the ballot, the voter  
30 shall deposit the ballot in the ballot box or voting system in the same manner as if  
31 such box or system was in use in a precinct on election day. At the end of each  
32 business day, or at any time when there will be no employee or officer of the board  
33 of elections on the premises, the ballot box or system shall be secured in accordance  
34 with rules adopted by the State Board of Elections, which shall include verifying that  
35 no additional ballots have been placed in the box or system. If a direct record voting  
36 system with retrievable ballots is approved by the State Board of Elections, it may be  
37 used for ballots cast under this section under rules approved by the State Board of  
38 Elections.

39 (f) Notwithstanding the exception specified in G.S. 163-116, counties which  
40 operate a modified full-time office shall remain open five days each week during  
41 regular business hours consistent with daily hours presently observed by the county  
42 board of elections, commencing with the date prescribed in G.S. 163-227.2(b) and  
43 continuing until 5:00 P.M. on the Friday prior to that election or primary. The boards

1 of county commissioners shall provide necessary funds for the additional operation of  
2 the office during such time.

3 (f1) Notwithstanding any other provision of this section, a county board of  
4 elections may provide for one or more sites in that county for absentee ballots to be  
5 applied for and cast under this section. Such sites must be approved by the State  
6 Board of Elections as part of a Plan for Implementation approved by both the county  
7 board of elections and by the State Board of Elections which shall also provide  
8 adequate security of the ballots and provisions to avoid allowing persons to vote who  
9 have already voted.

10 **"§ 163-227.3. Date by which absentee ballots must be available for voting.**

11 (a) The State Board of Elections shall provide absentee ballots of the kinds to be  
12 furnished by the State Board, to the county boards of elections 50 days prior to the  
13 date on which the election shall be conducted unless there shall exist an appeal  
14 before the State Board or the courts not concluded, in which case the State Board  
15 shall provide the ballots as quickly as possible upon the conclusion of such an appeal.  
16 In every instance the State Board shall exert every effort to provide absentee ballots,  
17 of the kinds to be furnished by the State Board, to each county by the date on which  
18 absentee voting is authorized to commence.

19 (b) Second Primary. -- The State Board of Elections shall provide absentee ballots,  
20 of the kinds to be furnished by the State Board, as quickly as possible after the ballot  
21 information has been determined.

22 **"§ 163-228. Register of absentee ballot applications and ballots issued; a public record.**

23 The State Board of Elections shall design an official register and provide a source  
24 of supply thereof from which the ~~chairman~~ of the county board of elections in each  
25 county of the State shall purchase a book to be called the register of absentee ballot  
26 applications and ballots issued in which shall be recorded whatever information and  
27 official action may be required by this Article.

28 The State Board of Elections may provide for the register to be kept by electronic  
29 data processing equipment, as long as the information required by this Article to be  
30 in the register has a hard copy printed out each business day, or a supplement printed  
31 out each day of new information.

32 The register of absentee ballot applications and ballots issued shall constitute a  
33 public record and shall be opened to the inspection of any registered voter of the  
34 county at any time within 50 days before and 30 days after an election in which  
35 absentee ballots were authorized, or at any other time when good and sufficient  
36 reason may be assigned for its inspection.

37 **"§ 163-229. Absentee ballots, container-return envelopes, and instruction sheets.**

38 (a) Absentee Ballot Form. -- In accordance with the provisions of G.S. 163-230(3),  
39 persons entitled to vote by absentee ballot shall be furnished with ~~regular~~ official  
40 ballots. ~~Separate or distinctly marked absentee ballots shall not be used.~~

41 (b) Container-Return Envelope. -- In time for use not later than 50 days before a  
42 statewide primary, general election or county bond election, the county board of  
43 elections shall print a sufficient number of envelopes in which persons casting  
44 absentee ballots may transmit their marked ballots to the ~~chairman~~ of the county

1 board of elections. Each container-return envelope shall be printed in accordance  
2 with the following instructions:

- 3 (1) ~~On one side~~ There shall be printed an identified space in which
- 4 shall be inserted the application number of the voter and the
- 5 following statement which shall be certified by one member of the
- 6 county board of elections:

7  
8 'Certification of Election Official

9 The undersigned election official does by ~~his~~ that  
10 election official's hand and seal certify that..... is a  
11 registered and qualified voter of ..... County, Precinct  
12 # ..... and ~~has made~~ is making proper application to vote  
13 under the Absentee Ballot Law of North Carolina for  
14 absentee ballots to be voted in the \_\_\_\_\_  
15 (primary or general or special election) to be held in  
16 \_\_\_\_\_ County on the  
17 \_\_\_\_\_ day of \_\_\_\_\_, 19  
18 \_\_\_\_\_.

19 .....(Seal)  
20 Chairman-Member'

- 21 (2) ~~On the other side~~ There shall be printed the return address of the
- 22 ~~chairman of the~~ county board of elections and the following
- 23 certificate:

24  
25 'Certificate of Absentee or Sick Voter

26 State of.....  
27 County of.....

28 I, ....., do certify that I am a resident and  
29 registered voter in ..... precinct, ..... County, North  
30 Carolina; that on the day of an election, ....., 19 ....  
31 (check whichever of the following statements is correct.)

32 [ ] I will be absent from the county in which I reside not be  
33 present at the polling place in which I am registered during  
34 the entire time the polls will be open on election day.

35 [ ] Due to sickness or physical disability, occurring after  
36 5:00 p.m. on the Tuesday before the election but before  
37 12:00 noon on the day of the election, or incarceration as a  
38 misdemeanant, I will be unable to travel to the voting place  
39 in the precinct in which I reside.

40 I further certify that ~~I made application for absentee~~  
41 ~~ballots, and that~~ I marked the ballots enclosed herein, or  
42 that they were marked for me in my presence and according  
43 to my instructions. I understand it is a felony to falsely sign  
44 this certificate.

1 .....  
 2 (Signature of voter)  
 3 .....  
 4 Signature of Witness #1 Signature of Witness #2  
 5 .....  
 6 Address of Witness #1 Address of Witness #2'

7 (3) There shall be printed the application provided by G.S. 163-227.  
 8 (c) Instruction Sheets. -- In time for use not later than 50 days before a statewide  
 9 primary, general or county bond election, the county board of elections shall prepare  
 10 and print a sufficient number of sheets of instructions on how voters are to prepare  
 11 absentee ballots and return them to the ~~chairman of the~~ county board of elections.  
 12 "§ 163-230. Consideration and ~~approval of applications and~~ issuance of absentee  
 13 ballots.

14 The procedure to be followed in ~~receiving applications for absentee ballots, passing~~  
 15 ~~upon their validity, and~~ issuing absentee ballots shall be governed by the provisions of  
 16 this section.

- 17 (1) Record of Applications Received and Ballots Issued. -- Upon  
 18 receipt of a voter's written ~~application~~ request for absentee ballots,  
 19 the ~~chairman of the~~ county board of elections shall promptly enter  
 20 in the register of absentee ballot application and ballots issued so  
 21 ~~much of~~ the following information ~~as he has not already entered~~  
 22 ~~there under the provisions of G.S. 163-227(4):~~  
 23 a. Name of voter applying for absentee ballots, and, if  
 24 applicable, the name and address of the voter's near relative  
 25 who ~~applied for~~ requested the application for absentee  
 26 ballots.  
 27 b. Number of assigned voter's application when issued.  
 28 c. Precinct in which applicant is registered.  
 29 d. Address to which ballots are to be mailed, or that the voter  
 30 voted pursuant to G.S. 163-227.2.  
 31 e. Reason assigned for requesting absentee ballots.  
 32 f. Date request for application for ballots is received by  
 33 ~~chairman. the~~ county board of elections.  
 34 g. The voter's party affiliation.  
 35 h. The date the ballots were mailed or delivered to the voter.

36 (2) Determination of Validity of Applications Requests for Absentee  
 37 Ballots. -- ~~The county board of election shall constitute the proper~~  
 38 ~~official body to pass upon the validity of all applications for~~  
 39 ~~absentee ballots received in the county; this function shall not be~~  
 40 ~~performed by the chairman or any other member of the board~~  
 41 ~~individually.~~

42 a: ~~Required Meeting of County Board of Elections. During~~  
 43 ~~the period commencing 50 days before an election, and until~~  
 44 ~~30 days before the election, in which absentee ballots are~~

1 authorized, the county board of elections shall hold one or  
2 more public meetings each week on a day and at an hour to  
3 be determined by the board for the purpose of action on  
4 applications for absentee ballots. Each member of the board  
5 shall be notified in writing of the day and hour such  
6 meetings shall be conducted. During the period opening 30  
7 days before an election in which absentee ballots are  
8 authorized and closing at 5:00 P.M. on the Tuesday before  
9 the election, the county board of elections shall hold public  
10 meetings at 10:00 A.M. on Tuesday and Friday of each  
11 week, and it shall also hold public meetings at 10:00 A.M.  
12 on the eighth, sixth, fourth and first days immediately  
13 preceding election day. These meetings shall be held at the  
14 county courthouse or at the elections board's office at the  
15 hour fixed by law. At these meetings the county board of  
16 elections shall pass upon applications for absentee ballots.

17 Upon a majority vote, the county board of elections  
18 may hold any such public meetings at an hour other than  
19 10:00 A.M., and it may hold more than one session on each  
20 day it meets and may set the hours of any additional  
21 sessions. If the board desires to exercise either or both of  
22 the options granted by the preceding sentence, it shall do so  
23 no later than 70 days before the election; thereafter, no  
24 change shall be made in the hours or dates fixed for the  
25 board's public meetings on absentee ballot applications.

26 The chairman of the county board of elections shall  
27 give notice to other board members of the schedule of  
28 meetings of the board.

29 If the county board of elections changes the time of  
30 holding its meetings or provides for additional meetings in  
31 accordance with the terms of this subdivision, notice of the  
32 change in hour and notice of the schedule of additional  
33 meetings, if any, shall be published in a newspaper  
34 circulated in the county, and a notice thereof shall be posted  
35 at the courthouse door of the county, at least 65 days prior  
36 to the election. Similar notice shall also be given of the  
37 dates and hours of the weekly meetings held until 30 days  
38 before the election. Notice may additionally be made on a  
39 radio or television station or both, but such notice shall be  
40 in addition to the newspaper and other required notice.

41 The county board of elections shall not be required to  
42 hold any of the meetings prescribed by this subdivision  
43 unless, since its last preceding meeting, it actually has  
44 received one or more applications for absentee ballots which

1                   it has not passed upon. When no meeting is to be held for  
2                   this reason, the chairman shall notify each of the other  
3                   members of the county board of elections that the scheduled  
4                   public meeting will not be held and state the reasons for its  
5                   cancellation.

6                   b. ~~Procedure at Required Meeting; Making Determination.~~  
7                   ~~At each public meeting of the county board of elections the~~  
8                   ~~chairman shall present for consideration, and the board shall~~  
9                   ~~pass upon, the validity of all applications for absentee ballots~~  
10                  ~~received since its last preceding public meeting held for that~~  
11                  ~~purpose. At each such meeting any registered voter of the~~  
12                  ~~county shall be heard and allowed to present evidence in~~  
13                  ~~opposition to, or in favor of, the issuance of absentee ballots~~  
14                  ~~to any voter making application for them.~~

15                  The county board of elections, upon receipt of a properly made request for  
16                  application for ballot by a person authorized to make such request for a person  
17                  qualified to vote by absentee ballot, shall transmit the application and ballot to the  
18                  voter in accordance with this Article. During the period commencing 60 days before  
19                  the election, the board of elections shall each business day no later than 10:00 a.m.  
20                  post a list of all persons for whom requests for application which have been received  
21                  by the end of the previous business day. The county board of elections may post  
22                  updated lists at additional times. Such list shall also include applicants for one-stop  
23                  voting under G.S. 163-227.2. Such list need not contain all the information on the  
24                  request. Any registered voter of the county may contest in writing such request,  
25                  giving specific grounds by which complying with the request would not be lawful. If  
26                  such contest is received prior to the absentee ballot and application being transmitted  
27                  to the voter, they shall not be transmitted until the request has been approved by the  
28                  county board of elections, which shall meet no later than 4:00 p.m. on the next  
29                  business day after the contest is received to act on the request. At any such meeting  
30                  any registered voter of the county shall be heard and allowed to present evidence in  
31                  opposition to, or in favor of, the issuance of absentee ballots to any voter making  
32                  application for them. If the board approves the request, the application and ballot  
33                  shall be transmitted in accordance with law if it has not yet been transmitted. If the  
34                  board disapproves the request, the ballot and application shall not be transmitted,  
35                  shall not be counted if the rejection occurs after the ballot has been transmitted, or if  
36                  the denial comes after the ballot has been counted, it shall be treated as if a challenge  
37                  has been sustained under G.S. 163-89(e). In the case of one-stop absentee ballots cast  
38                  under G.S. 163-227.1, if the board of elections denies an application, it shall be  
39                  treated as if a challenge has been sustained under G.S. 163-89(e). It is a  
40                  misdemeanor to make a contest under this subdivision if the contestor does not know,  
41                  suspect, or reasonably believe the person not to be qualified to receive an absentee  
42                  ballot.

43                  The county board of elections may consider the registration records as evidence of  
44                  the voter's signature, if available, and as any other evidence that may be necessary to

1 pass upon such ~~an~~ a request for application, including the party affiliation of a voter  
2 seeking to vote in a primary.

3 If the board finds that the applicant is a qualified voter of the county, that ~~he the~~  
4 qualified voter is registered in the precinct stated in ~~his the qualified voter's~~  
5 application, that the assertions in ~~his the qualified voter's~~ application are true, and  
6 that ~~his the qualified voter's~~ application is in proper form, it shall approve ~~his the~~  
7 qualified voter's application for absentee ballots.

8 e- Record of Board's Determination; Decision Final. -- At the time the county board  
9 of elections makes its decision on an application or request for application for  
10 absentee ballots, the ~~chairman board~~ shall enter in the appropriate column in the  
11 register of absentee ballot applications and ballots issued opposite the name of the  
12 applicant a notation of whether ~~his the applicant's~~ application was 'Approved' or  
13 'Disapproved'.

14 The decision of the board on the validity of an application or request for  
15 application for absentee ballots shall be final subject only to such review as may be  
16 necessary in the event of an election contest.

17 (3) Delivery of Absentee Ballots and Container-Return Envelope to  
18 Applicant. -- When the county board of elections approves ~~an a~~  
19 request for application for absentee ballots, ~~the chairman the~~  
20 chairman, a member, officer, or employee or the board shall  
21 promptly issue and transmit them to the voter only, and not to ~~his~~  
22 the voter's near relative, in accordance with the following  
23 instructions:

24 a. On the top margin of each ballot the applicant is entitled to  
25 vote, the ~~chairman chairman, a member, officer, or~~  
26 employee of the board of elections shall write or type the  
27 words 'Absentee Ballot No. ....' or an abbreviation approved  
28 by the State Board of Elections and insert in the blank space  
29 the number assigned the applicant's application in the  
30 register of applications for absentee ballots and ballots  
31 issued. ~~He That person~~ shall not write, type, or print any  
32 other matter upon the ballots transmitted to the absentee  
33 voter. Alternatively, the board of elections may cause to be  
34 barcoded on the ballot the voter's application number, if  
35 such barcoding system is approved by the State Board of  
36 Elections.

37 b. The ~~chairman chairman, member, officer, or employee of~~  
38 the board of elections shall fold and place the ballots  
39 (identified in accordance with the preceding instruction) in  
40 a container-return envelope and write or type in the  
41 appropriate blanks thereon, in accordance with the terms of  
42 G.S. 163-229(b), the absentee voter's name, ~~his the absentee~~  
43 voter's application number and the designation of the  
44 precinct in which the voter is registered. If the ballot is

1 barcoded under this section, the envelope may be barcoded  
 2 rather than having the actual number appear. The ~~chairman~~  
 3 person placing the ballots in the envelopes shall leave the  
 4 container-return envelope holding the ballots unsealed.

- 5 c. The chairman, chairman, member, officer, or employee of  
 6 the board of elections shall then place the unsealed  
 7 container-return envelope holding the ballots together with  
 8 printed instructions for voting and returning the ballots, in  
 9 an envelope addressed to the applicant at the post office  
 10 address stated in ~~his~~ the applicant's application, request, seal  
 11 the envelope, and mail it at the expense of the county board  
 12 of elections, or deliver it to the applicant in person:  
 13 Provided, that in case of approval of an application received  
 14 after 5:00 P.M. on the Tuesday before the election under the  
 15 provisions of G.S. 163-227(b)(2), in lieu of transmitting the  
 16 ballots to the applicant in person or by mail, the ~~chairman~~  
 17 chairman, chairman, member, officer, or employee of the board of  
 18 elections may deliver the sealed envelope containing the  
 19 instruction sheet and the container-return envelope holding  
 20 the ballots to a near relative of the voter.

21 **"§ 163-230.1. Simultaneous issuance of absentee ballots with application.**

22 (a) When a qualified voter personally requests by mail an application for absentee  
 23 ballots, the county board of elections shall cause to be mailed to that voter in a single  
 24 package:

- 25 (1) The official ballots the voter is entitled to vote if ~~his~~ the qualified  
 26 voter's application request is approved;  
 27 (2) A container-return envelope for the ballots, upon the outside of  
 28 which shall be printed the appropriate application form as  
 29 provided in G.S. ~~163-227;~~  
 30 (3) ~~A large envelope (similar to a No. 14 or larger manila envelope) in~~  
 31 ~~which the container-return envelope with the ballots may be~~  
 32 ~~returned 163-227 and on which the affidavit provided by G.S.~~  
 33 ~~163-229(b) shall be printed; and~~  
 34 (4) An instruction sheet.

35 The ballots, envelopes and instructions shall be mailed to the voter by the county  
 36 board's ~~chairman, secretary or supervisor~~ chairman, member, officer, or employee as  
 37 determined by the board and entered in ~~its official minutes;~~ the register as provided  
 38 by this Article.

39 ~~On the back of the large transmittal envelope shall be clearly printed or stamped~~  
 40 ~~the following statement:~~

41 ~~DO NOT PLACE THE ENVELOPE CONTAINING YOUR BALLOTS INTO~~  
 42 ~~THIS ENVELOPE UNTIL YOU HAVE COMPLETED THE APPLICATION ON~~  
 43 ~~THE ENVELOPE CONTAINING YOUR BALLOTS AND SECURED THE~~  
 44 ~~SIGNATURE OF A WITNESS.~~

1 (b) The application shall be completed, the ballots marked, the ballots sealed in  
2 the container-return envelope, and the ~~large envelope affidavit certificate~~ completed  
3 as provided in G.S. ~~163-227 and G.S. 163-231.~~ 163-229. ~~The container return~~  
4 ~~envelope shall be placed in the large transmittal envelope for return to the chairman~~  
5 ~~of the county board of elections.~~

6 (c) At its next official meeting after return of the completed container-return  
7 envelope ~~and large envelope~~ with the voter's ballots, the county board of elections  
8 shall determine whether the container-return envelope ~~and large envelope~~ have has  
9 been properly executed. If the board determines that ~~both~~ the container-return  
10 envelope ~~and large envelope~~ have has been properly executed, it shall approve the  
11 application and deposit the container-return envelope with other container-return  
12 envelopes for the envelope to be opened and the ballots counted at the same time as  
13 all other container-return envelopes and absentee ballots. The board may hold  
14 official meetings under this section periodically, may hold such meeting on the day of  
15 the election before counting begins, along with another meeting to approve any  
16 applications which have been received before 12:00 noon on the day of the election  
17 under G.S. 163-227(b)(2), or may delegate the approval to the supervisor of elections.

18 (d) ~~The provisions of this section shall apply only to requests received by mail~~  
19 ~~from and signed by the voter individually and personally. No near relative, guardian,~~  
20 ~~or other person other than the voter himself shall be permitted to apply for absentee~~  
21 ~~ballots under this section.~~ Only the voter may make application for absentee ballots.  
22 A near relative of a voter may request an application and ballot on behalf of a voter,  
23 on a form approved by the State Board of Elections which shall be provided by the  
24 county board of elections. Such form may be delivered to the county board of  
25 elections personally by the near relative, by mail, or by fax.

26 (e) The State Board of Elections, by regulation rule or by instruction to the  
27 county board of elections, shall establish procedures to provide appropriate  
28 safeguards in the implementation of this section.

29 "§ 163-230.2. Faxing.

30 (a) As used in this Subchapter a 'fax' is an electronic transmission of a facsimile,  
31 but the facsimile must have on it the signature of the person making the request.

32 (b) Any provision of this Subchapter allowing a fax to be used applies only if the  
33 county board of elections or the office of the county manager has a fax machine.

34 (c) The State Board of Elections shall issue rules to implement this section.

35 "§ 163-231. Voting absentee ballots and transmitting them to chairman of the county  
36 board of elections.

37 (a) Procedure for Voting Absentee Ballots. -- In the presence of two other persons  
38 who are at least 18 years of age, and who are not disqualified by G.S. 163-226.3(a)(4)  
39 or G.S. 163-274(5a), the voter shall:

- 40 (1) Mark his the voter's ballots, or cause them to be marked by one of  
41 such persons in his the voter's presence according to his the voter's  
42 instruction;
- 43 (2) Fold each ballot separately, or cause each of them to be folded in  
44 his the voter's presence;

- 1 (3) Place the folded ballots in the container-return envelope and  
 2 securely seal it, or have this done in ~~his~~ the voter's presence;  
 3 (4) Make the application printed on the container-return envelope  
 4 according to the provisions of G.S. 163-227 and make the  
 5 certificate printed on the container-return envelope according to  
 6 the provisions of G.S. 163-229(b).

7 The persons in whose presence the ballot is marked shall at all times respect the  
 8 secrecy of the ballot and the privacy of the absentee voter, unless the voter requests  
 9 their assistance and they are otherwise authorized by law to give assistance. The  
 10 persons in whose presence the ballot was marked shall sign the application and  
 11 certificate as witnesses, and shall indicate their address. When thus executed, the  
 12 sealed container-return envelope, with the ballots enclosed, shall be transmitted in  
 13 accordance with the provisions of subsection (b) of this section to the chairman of the  
 14 county board of elections ~~who~~ which issued the ballots.

15 (a1) Repealed by Session Laws 1987, c. 583, s. 1.

16 (b) Transmitting Executed Absentee Ballots to ~~Chairman of~~ County Board of  
 17 Elections. -- The sealed container-return envelope in which executed absentee ballots  
 18 have been placed shall be transmitted to the ~~chairman of the~~ county board of  
 19 elections who issued them as follows: All ballots issued under the provisions of  
 20 Articles 20 and 21 of this Chapter shall be transmitted by mail, at the voter's expense,  
 21 or delivered in person, or by the voter's ~~spouse, brother, sister, parent, grandparent,~~  
 22 ~~child or grandchild~~ near relative not later than ~~5:00 P.M. on the day before the~~  
 23 ~~statewide primary or general election or county bond~~ 7:30 p.m. on the day of the  
 24 election. If such ballots are received later than that hour, they shall not be accepted  
 25 for voting.

26 "§ 163-232. Certified list of executed absentee ballots; distribution of list.

27 (a) The ~~chairman of the~~ county board of elections shall prepare, or cause to be  
 28 prepared, a list in at least quadruplicate, of all absentee ballots returned to the county  
 29 board of elections to be counted, which have been approved by the county board of  
 30 ~~elections.~~ elections, and which have been received as of 5:00 p.m. on the day before  
 31 the election. At the end of the list, the chairman shall execute the following  
 32 certificate under oath:

33 'State of North Carolina

34 County of .....

35 I, ....., chairman of the ..... County board of elections, do hereby  
 36 certify that the foregoing is a list of all executed absentee ballots to be  
 37 voted in the election to be conducted on the ..... day of ....., 19 .....,  
 38 which have been approved by the county board of ~~elections.~~ elections and  
 39 which have been returned no later than 5:00 p.m. on the day before the  
 40 election. I further certify that I have issued ballots to no other persons than  
 41 those listed herein, whose original applications or original applications  
 42 made by near relatives are filed in the office of the county board of  
 43 elections, and I further certify that I have the chairman, member, officer,  
 44 or employee of the board of elections has not delivered ballots for absentee

1 voting to any person other than the ~~voter himself~~, voter, by mail or in  
 2 person, except as provided by law, ~~in the case of approved applications~~  
 3 ~~received after 5:00 P.M. on the Tuesday or Friday before the election. and~~  
 4 have not mailed or delivered ballots when the request for the ballot was  
 5 received after the deadline provided by law.

6 This the ..... day of ....., 19.....

7 .....  
 8 (Signature of chairman of  
 9 county board of elections)

10 Sworn to and subscribed before me this ..... day of ....., 19 ..... Witness  
 11 my hand and official seal.

12 .....  
 13 (Signature of officer  
 14 administering oath)

15 .....  
 16 (Title of officer)

17 No ~~earlier than 3:00 P.M. on the day before the election and no later than 10:00~~  
 18 A.M. on election day, the chairman county board of elections shall cause one copy of  
 19 the list of executed absentee ballots, which may be a continuing countywide list or a  
 20 separate list for each precinct, to be immediately deposited as 'first-class' mail to the  
 21 State Board of Elections. ~~He~~ The board shall retain one copy in the board office for  
 22 public inspection and ~~he~~ the board shall cause two copies of the appropriate precinct  
 23 list to be delivered to the chief judge of each precinct in the county. The ~~chairman~~  
 24 county board of elections shall be authorized to call upon the sheriff of the county to  
 25 distribute the list to the precincts. In addition the ~~chairman~~ county board of elections  
 26 shall, upon request, provide a copy of the complete list to the chairman of each  
 27 political party, recognized under the provisions of G.S. 163-96, represented in the  
 28 county.

29 The chief judge shall post one copy of the list immediately in a conspicuous  
 30 location in the voting place and retain one copy until all challenges of absentee  
 31 ballots have been heard by the county board of elections. Challenges shall be made  
 32 to absentee ballots as provided in G.S. 163-89.

33 After receipt of the list of absentee voters required by this section the chief judge  
 34 shall call the name of each person recorded on the list and enter an 'A' in the  
 35 appropriate voting square on the voter's permanent registration ~~record~~ record, or a  
 36 similar entry on the computer list used at the polls. If such person is already  
 37 recorded as having voted in that election, the chief judge shall enter a challenge  
 38 which shall be presented to the ~~chairman of the~~ county board of elections for  
 39 resolution by the board of elections prior to certification of results by the board.

40 (b) The county board of elections shall prepare, or cause to be prepared, a list in  
 41 at least duplicate, of all absentee ballots returned to the county board of elections to  
 42 be counted, which have been approved by the county board of elections, and which  
 43 have been received after 5:00 p.m. on the day before the election but before 7:30 p.m.



1 The ~~chairman of the~~ county board of elections shall retain, in a safe place, the  
2 original of all applications made for absentee ballots and shall make them available to  
3 inspection by the State Board of Elections or to any person upon the directive of the  
4 State Board of Elections.

5 All applications for absentee ballots shall be retained by the county board of  
6 elections for a period of one year after which they may be destroyed.

7 "§ 163-233.1. Withdrawal of absentee ballots not allowed.

8 No person shall be permitted to withdraw an absentee ballot after such ballot has  
9 been mailed to or returned to the county board of elections.

10 "§ 163-234. Counting absentee ballots by county board of elections.

11 All absentee ballots returned to the ~~chairman or supervisor of elections of the~~  
12 county board of elections in the container-return envelopes shall be retained by the  
13 ~~chairman~~ board to be counted by the county board of elections as herein provided.

14 (1) Only those absentee ballots returned to the county board of  
15 elections no later than ~~5:00 P.M.~~ 7:30 p.m. on the ~~day before~~  
16 election day in a properly executed container-return envelope shall  
17 be counted.

18 (2) The county board of elections shall meet at 5:00 P.M. on election  
19 day in the board office or other public location in the county  
20 courthouse for the purpose of counting all absentee ballots except  
21 those which have been challenged before 5:00 P.M. on election  
22 day. Any elector of the county shall be permitted to attend the  
23 meeting and allowed to observe the counting process, provided ~~he~~  
24 the elector shall not in any manner interfere with the election  
25 officials in the discharge of their duties.

26 Provided, that the county board of elections is authorized to  
27 begin counting absentee ballots between the hours of 2:00 P.M. and  
28 5:00 P.M. upon the adoption of a resolution at least two weeks  
29 prior to the election wherein the hour and place of counting  
30 absentee ballots shall be stated. A copy of the resolutions shall be  
31 published once a week for two weeks prior to the election, in a  
32 newspaper having general circulation in the county. Notice may  
33 additionally be made on a radio or television station or both, but  
34 such notice shall be in addition to the newspaper and other  
35 required notice. The count shall be continuous until completed  
36 and the members shall not separate or leave the counting place  
37 except for unavoidable ~~necessity.~~ necessity, except that if the count  
38 has been completed prior to the time the polls close, it shall be  
39 suspended until that time pending receipt of any additional ballots,  
40 and except that one-stop ballots under G.S. 163-227.2 counted  
41 electronically shall not be counted until the polls close; provided,  
42 however, that if there are outstack ballots in the counting device,  
43 they may be counted at the same time as other ballots are counted  
44 under this subdivision. The county board of elections may begin

1           putting them in the tabulator at the same time as other ballots are  
2           counted under this subdivision if the system for counting one-stop  
3           ballots requires them to be put in a tabulator but the process has  
4           the voter place them in a ballot box. The board shall not  
5           announce the result of the count before 7:30 P.M.

6           (3) The counting of absentee ballots shall not commence until a  
7           majority and at least one board member of each political party  
8           represented on the board is present and such fact is publicly  
9           declared and entered in the official minutes of the county board.

10          (4) The county board of elections may employ such assistants as  
11          deemed necessary to count the absentee ballots, but each board  
12          member present shall be responsible for and observe and supervise  
13          the opening and tallying of the ballots.

14          (5) As each ballot envelope is opened, the board shall cause to be  
15          entered into a pollbook designated 'Pollbook of Absentee Voters'  
16          the name of the absentee ~~voter.~~ voter, or if the pollbook is  
17          computer generated the board shall check off the name.  
18          Preserving secrecy, the ballots shall be placed in the appropriate  
19          ballot boxes, at least one of which shall be provided for each type  
20          of ballot. The 'Pollbook of Absentee Voters' shall also contain the  
21          names of all persons who voted under G.S. 163-227.2, but such  
22          names may be printed by computer for inclusion in the pollbook.

23                 After all ballots have been placed in the boxes, the counting  
24                 process shall begin.

25                 If one-stop ballots under G.S. 163-227.2 are counted  
26                 electronically, that count shall commence at the time the polls  
27                 close. If one-stop ballots are paper ballots counted manually, that  
28                 count shall commence at the same time as other absentee ballots  
29                 are counted.

30                 If a challenge transmitted to the board on canvass day by a  
31                 chief judge is sustained, the ballots challenged and sustained shall  
32                 be withdrawn from the appropriate boxes, as provided in G.S.  
33                 163-89(e).

34                 As soon as the absentee ballots have been counted and the  
35                 names of the absentee voters entered in the pollbook as required  
36                 herein, the board members and assistants employed to count the  
37                 absentee ballots shall each sign the pollbook immediately beneath  
38                 the last absentee voter's name entered therein. The ~~chairman~~  
39                 county board of elections shall be responsible for the safekeeping  
40                 of the pollbook of absentee voters.

41          (6) Upon completion of the counting process the board members shall  
42          cause the results of the tally to be entered on the absentee abstract  
43          prescribed by the State Board of Elections. The abstract shall be  
44          signed by the members of the board in attendance and the original

1 mailed immediately to the State Board of Elections, Raleigh, North  
2 Carolina 27602. The county board of elections may have a  
3 separate count on the abstract for one-stop absentee ballots under  
4 G.S. 163-227.2.

5 (7) One copy of the absentee abstract shall be retained by the county  
6 board of elections and the totals appearing thereon shall be added  
7 to the final totals of all votes cast in the county for each office as  
8 determined on the official canvass.

9 (8) In the event a political party does not have a member of the  
10 county board of elections present at the ~~5:00 P.M.~~ meeting to count  
11 absentee ballots due to illness or other cause of the member, the  
12 counting shall not commence until the county party chairman of  
13 said absent member, or a member of the party's county executive  
14 committee, is in attendance. Such person shall act as an official  
15 witness to the counting and shall sign the absentee ballot abstract  
16 as an 'observer.'

17 (9) The county board of elections shall retain all container-return  
18 envelopes and absentee ballots, in a safe place, for at least four  
19 months, and longer if any contest is pending concerning the  
20 validity of any ballot.

21 "**§ 163-236. Violations by ~~chairman~~ of county board of elections.**

22 The ~~chairman of the~~ county board of elections shall be sole custodian of blank  
23 applications for absentee ballots, official ballots, and container-return envelopes for  
24 absentee ballots. ~~He~~ The board shall issue and deliver blank applications for absentee  
25 ballots in strict accordance with the provisions of G.S. 163-227(c). The issuance of  
26 ballots to persons whose applications for absentee ballots have been approved by the  
27 county board of elections under the provisions of G.S. 163-230(3) is the responsibility  
28 and duty of the ~~chairman of the~~ county board of elections.

29 It shall be the duty of the ~~chairman of the~~ county board of elections to keep  
30 current all records required ~~of him~~ by this Article and to make promptly all reports  
31 required ~~of him~~ by this Article. If such duty has been assigned to the chairman,  
32 member, officer, or employee of the board of elections, they shall carry out the duty.

33 The willful violation of this section shall constitute a Class 2 misdemeanor.

34 "**§ 163-237. Certain violations of absentee ballot law made criminal offenses.**

35 (a) False Statements under Oath Made Class 2 Misdemeanor. -- If any person  
36 shall willfully and falsely make any affidavit or statement, under oath, which affidavit  
37 or statement under oath, is required to be made by the provisions of this Article, ~~he~~  
38 that person shall be guilty of a Class 2 misdemeanor.

39 (b) False Statements Not under Oath Made Class 2 Misdemeanor. -- Except as  
40 provided by G.S. 163-275(16), if any person, for the purpose of obtaining or voting  
41 any official ballot under the provisions of this Article, shall willfully sign any printed  
42 or written false statement which does not purport to be under oath, or which, if it  
43 purports to be under oath, was not duly sworn to, ~~he~~ that person shall be guilty of a  
44 Class 2 misdemeanor.

1 (c) Fraud in Connection with Absentee Vote; Forgery. -- Any person attempting  
2 to aid and abet fraud in connection with any absentee vote cast or to be cast, under  
3 the provisions of this Article, shall be guilty of a misdemeanor. Attempting to vote  
4 by fraudulently signing the name of a regularly qualified voter is a Class I felony.

5 (d) Violations Not Otherwise Provided for Made Class 2 Misdemeanors. -- If any  
6 person shall willfully violate any of the provisions of this Article, or willfully fail to  
7 comply with any of the provisions thereof, for which no other punishment is herein  
8 provided, ~~he~~ that person shall be guilty of a Class 2 misdemeanor.

9 "§ 163-238. Reports of violations to district attorneys.

10 It shall be the duty of the State Board of Elections to report to the district attorney  
11 of the appropriate prosecutorial district, any violation of this Article, or the failure of  
12 any person charged with a duty under its provisions to comply with and perform that  
13 duty, and it shall be the duty of the district attorney to cause such a person to be  
14 prosecuted therefor.

15 "§ 163-239. Article 21 relating to absentee voting by ~~servicemen and certain civilians~~  
16 uniformed and overseas citizens not applicable.

17 Except as otherwise provided therein, Article 21 of this Chapter, relating to  
18 absentee registration and voting by ~~servicemen and certain civilians~~, uniformed and  
19 overseas citizens shall not apply to or modify the provisions of this Article.

20

21

"ARTICLE 21.

22

23

"~~Military Absentee Registration and Voting in  
Primary and General Elections.~~

24

25

Elections by Uniformed and Overseas Citizens.

26

27 "§ 163-245. ~~Persons in armed forces, their spouses, certain veterans, civilians working~~  
28 ~~with armed forces, and members of Peace Corps~~ Uniformed and overseas citizens may  
29 register and vote by mail.

30 (a) Any individual who is eligible to register and who is qualified to vote in any  
31 ~~statewide primary or~~ election held under the laws of this State, other than municipal  
32 elections where absentee voting is not permitted under G.S. 163-302, and who is  
33 absent from the county of ~~his~~ the individual's residence in any of the capacities  
34 specified in subsection (b) of this section, shall be entitled to register by mail and to  
35 vote by ~~military~~ uniformed citizens absentee ballot in the manner provided in this  
36 Article.

37 As has been the case since enactment of this Article in 1941, registration under this  
38 Article is not permanent, and is only for the election or for the calendar year as  
39 provided by this Article.

40 (b) The provisions of this Article shall apply to the following persons:

41

42

43

44

(~~1~~) ~~Persons serving in the armed forces of the United States, including  
(but not limited to) the army, the navy, the air force, the marine  
corps, the coast guard, the Army Nurse Corps, the Navy Nurse  
Corps, the Women's Navy Reserve, the Marine Corps Women's~~

1 ~~Reserve, the Women's Army Corps, Army, Navy, Air Force,~~  
2 ~~Marine Corps, and Coast Guard, the commissioned corps of the~~  
3 ~~Public Health Service, the commissioned corps of the National~~  
4 ~~Oceanic and Atmospheric Administration, the Merchant Marine,~~  
5 and members of the national guard and military reserve who on  
6 the day of a ~~primary or general~~ election are absent from the county  
7 where registered to vote by reason of active duty.

8 (2) ~~Spouses of persons serving in the armed forces of the United~~  
9 ~~States residing outside the counties of their spouses' voting~~  
10 ~~residence. A spouse or dependent of a member referred to in~~  
11 ~~subdivision (2) or (5) of this section who, by reason of the active~~  
12 ~~duty or service of the member, is absent from the county where the~~  
13 ~~spouse or dependent is otherwise qualified to vote;~~

14 (3) ~~Disabled war veterans in United States government hospitals.~~

15 (4) ~~Civilians attached to and serving outside the United States with the~~  
16 ~~armed forces of the United States.~~

17 (5) ~~Members of the Peace Corps.~~

18 (6) Members of the merchant marine who, by reason of service in the  
19 merchant marine, are absent from the county.

20 (c) As used in this section, 'member of the merchant marine' means an individual  
21 (other than a person covered by subdivision (b)(1) of this section or an individual  
22 employed, enrolled, or maintained on the Great Lakes or the inland waterways):

23 (1) Employed as an officer or crew member of a vessel documented  
24 under the laws of the United States, or a vessel owned by the  
25 United States, or a vessel of foreign-flag registry under charter to  
26 or control of the United States; or

27 (2) Enrolled with the United States for employment or training for  
28 employment, or maintained by the United States for emergency  
29 relief service, as an officer or crew member of any such vessel.

30 "§ 163-246. Provisions of Article 20 applicable except as otherwise provided; State  
31 Board of Elections to adopt ~~regulations; rules.~~

32 Except as otherwise provided in this Article, registration by mail and absentee  
33 voting by individuals to whom this Article is applicable shall be governed by the  
34 provisions of Article 20 of this Chapter. By way of illustration rather than limitation,  
35 the provisions of this paragraph shall apply to the form of absentee ballots,  
36 certificates and container-return envelopes; the manner of depositing and voting  
37 military absentee ballots; the counting and certifying of results; the hearing of  
38 challenges; and the preservation of container-return envelopes in which executed  
39 military absentee ballots are transmitted.

40 The State Board of Elections ~~is authorized to~~ may adopt and promulgate whatever  
41 rules ~~and regulations~~ (not in conflict with other provisions of this Chapter) it may  
42 deem necessary to carry out the true intent and purpose of this Article.

43 "§ 163-247. Methods of applying for absentee ballots.

1 An individual entitled to exercise the rights conferred by this Article and who is  
2 absent from the county of ~~his~~ the individual's residence may apply for absentee  
3 ballots in either any of the ways provided ~~in this section~~ as follows:

4 (1) Federal Postcard Application Form. -- At any time prior to the  
5 statewide primary or general election in which ~~he~~ the applicant  
6 seeks to vote, the applicant may make and sign a written  
7 application to the County Board of ~~Election in~~ Elections in the  
8 County of Voter's Residence for absentee ballots on the postcard  
9 form specified in or promulgated by regulation under 42 U.S.C.  
10 ~~1973ee-14~~ 1973ff.

11 (2) Application to Chairman of County Board of Elections. -- In lieu  
12 of applying on the federal post card as provided in the preceding  
13 subdivision, at any time prior to the ~~statewide primary or general~~  
14 election in which ~~he~~ seeks to vote the applicant may make and  
15 sign a written application to the chairman of the board of elections  
16 of the county of ~~his~~ the applicant's residence upon a form  
17 prepared and furnished ~~him~~ the applicant upon request by the  
18 county board of elections. This form shall require the applicant's  
19 signature and shall elicit from ~~him~~ the applicant:

20 a. A request for absentee ballots to be voted in a specified  
21 ~~statewide primary or general~~ election.

22 b. A statement of ~~his~~ the applicant's political party affiliation if  
23 ~~he~~ the applicant seeks to vote by absentee ballot in a  
24 partisan primary election.

25 c. A statement of ~~his~~ the applicant's membership in the ~~armed~~  
26 ~~forces of the United States, or his membership in one of the~~  
27 ~~other categories~~ a category to which this Article is made  
28 applicable in G.S. 163-245.

29 d. A statement of the precinct in which ~~he~~ the applicant is  
30 registered to vote, or, if the applicant is not registered, a  
31 statement of ~~his~~ the applicant's address before entering  
32 military or other qualifying service and the period of time  
33 ~~he~~ the applicant resided at that address.

34 e. A statement of the address to which the absentee ballots  
35 should be mailed.

36 In lieu of using a form prepared and furnished by the county  
37 board of elections, the voter may apply in an informal writing. If  
38 the written application is signed by the voter and if it contains all  
39 the information required by this subdivision, it shall be regarded as  
40 sufficient to permit the chairman of the county board of elections  
41 to act upon it.

42 (3) Notwithstanding subdivisions (1) or (2) of this section, if the  
43 application under either of those subdivisions so requests, it shall  
44 constitute an application for more than one or for all of the

1 primaries and elections held during the calendar year when the  
2 application is received.

3 The postcard application form, written application, or informal writing provided  
4 by this section may be transmitted to the county board of elections, by mail, by fax,  
5 or delivered in person by the voter or the voter's near relative or legal verifiable  
6 guardian.

7 "§ 163-248. Register, ballots, container-return envelopes, and instruction sheets.

8 (a) Register of Military Absentee Ballot Applications and Ballots Issued. -- The  
9 State Board of Elections shall furnish the chairman of the board of elections in each  
10 county of the State with a book to be called the register of military absentee ballot  
11 applications and ballots issued in which shall be recorded whatever information and  
12 official action may be required by this Article. In lieu of furnishing this register, the  
13 State Board of Elections may provide for a separate military section in the register  
14 furnished under the provisions of G.S. 163-228 which shall be used for the same  
15 purpose.

16 The State Board of Elections may provide for the register to be kept by electronic  
17 data processing equipment, as long as the information required by this Article to be  
18 in the register has a hard copy printed out each business day, or a supplement printed  
19 out each day of new information.

20 The register of military absentee ballot applications and ballots issued, whether  
21 contained in a separate book or maintained as a separate part of the register  
22 furnished under the provisions of G.S. 163-228, shall constitute a public record and  
23 shall be opened to the inspection of any registered voter of the county at any time.

24 (b) Absentee Ballot Form. -- Persons entitled to vote by absentee ballot under the  
25 terms of this Article shall be furnished with ~~regular official ballots; separate or~~  
26 ~~distinctly marked absentee ballots shall not be used.~~ official ballots. The State Board  
27 of Elections and the county boards of elections shall have all necessary absentee  
28 ballots printed and in the hands of the proper election officials not later than 50 days  
29 before the primary or election.

30 (c) Container-Return Envelope. -- The county board of elections shall print a  
31 sufficient number of envelopes in which persons casting military absentee ballots may  
32 transmit their marked ballots to the ~~chairman of the~~ county board of elections. The  
33 container-return envelopes shall be printed and available for use not later than 50  
34 days before the primary or election. Each container-return envelope shall be printed  
35 in accordance with the following instructions:

36 (1) On one side shall be arranged identified spaces in which the  
37 ~~chairman of the~~ county board of elections may insert the name of  
38 the applicant, the number assigned ~~his~~ to the application, and the  
39 designation of the precinct in which ~~his~~ the applicant's ballots are  
40 to be voted.

41 (2) On the other side shall be printed the return address of the  
42 ~~chairman of the~~ county board of elections and the following  
43 certificate:

44 Certificate of Absentee Voter

1 I, ....., do hereby certify that I am a resident and qualified voter in  
2 ..... precinct, ..... County, North Carolina, and that I am [check whichever of  
3 the following statements is correct]

4  ~~Serving in the armed forces of the United States Army, Navy, Air Force, Marine~~  
5 ~~Corps, and Coast Guard, the commissioned corps of the Public Health Service, the~~  
6 ~~commissioned corps of the National Oceanic and Atmospheric Administration, the~~  
7 ~~merchant marine, or a member of the national guard and military reserve and on the~~  
8 ~~day of the election expect to be absent from the county by reason of my active duty.~~

9  ~~The spouse of a member of the armed forces of the United States residing outside~~  
10 ~~the county of my spouse's residence a person in a category listed above and will, by~~  
11 ~~reason of the active duty of that person, expect on the day of the election to be~~  
12 ~~absent from the county where I am registered to vote.~~

13  ~~A disabled war veteran in a United States government hospital~~

14  ~~A civilian attached to and serving outside the United States with the armed forces~~  
15 ~~of the United States~~

16  ~~A member of the Peace Corps~~

17 I further certify that I am affiliated with the ..... Party. [To be completed only if  
18 applicant seeks to vote in the primary of the political party to which ~~he~~ the applicant  
19 belongs.]

20 I further certify that the following is my official address:

21 .....

22 [Unit (Co., Sq., Trp., Bn., etc.), Governmental Agency, or Office]

23 .....

24 [Military Base, Station, Camp, Fort, Ship, Airfield, etc.]

25 .....

26 [Street number, APO, or FPO number]

27 .....

28 [City, ~~postal zone~~, State, and zip code or applicable foreign address]

29 I further certify that I made application for absentee ballots and that I marked the  
30 ballots enclosed herein, or that they were marked for me in my presence and  
31 according to my instruction. I understand it is a felony to falsely sign this certificate.

32 Witness my hand in the presence of ..... [Insert names and addresses of witnesses]  
33 this ..... day of....., 19.....

34 .....

35 (Signature of voter)

36 Signature of witness #1 .....

37 Address of witness #1 .....

38 Signature of witness #2 .....

39 Address of witness #2 .....

40 Note: This certificate must be witnessed by any two persons who are 18 years of age  
41 or older, and must contain their signatures and addresses.

42 (d) Instruction Sheets. -- The county board of elections shall prepare and print a  
43 sufficient number of sheets of instructions on how voters covered by the provisions of  
44 this Article are to prepare absentee ballots and return them to the ~~chairman of the~~

1 county board of elections. The instruction sheets shall be printed and available for  
2 use not later than ~~60~~ 50 days before the ~~primary or~~ election.

3 "§ 163-249. Consideration and approval of applications and issuance of absentee  
4 ballots.

5 The procedure to be followed in receiving applications for absentee ballots under  
6 this Article, passing upon their validity, and issuing absentee ballots shall be governed  
7 by the provisions of this section.

8 (1) Record of Applications Received and Ballots Issued. -- Upon  
9 receipt of a voter's written application for absentee ballots in ~~either~~  
10 any of the forms permitted by G.S. 163-247, the ~~chairman~~  
11 chairman, secretary, supervisor of elections, or an employee of the  
12 county board of elections shall promptly enter in the register of  
13 military absentee ballot applications and ballots issued:

- 14 a. Name of voter applying for absentee ballots.  
15 b. Applicant's political party affiliation as stated in an  
16 application for ballots in a primary.  
17 c. Number assigned voter's application. (Numbers assigned  
18 applications received under the provisions of this Article  
19 shall be chosen so as not to be identical with numbers  
20 assigned applications received under the provisions of  
21 Article 20.)  
22 d. Precinct in which applicant is registered if ~~he~~ the applicant  
23 is already registered, or precinct in which applicant is  
24 registered by the ~~chairman of the~~ county board of elections  
25 under the provisions of subdivisions (2) and (3) of this  
26 section.  
27 e. Address to which ballots are to be mailed.  
28 f. Statement of basis on which applicant asserts ~~his~~ the  
29 applicant's qualifications for obtaining absentee ballots  
30 under the provisions of this Article.  
31 g. Date application for ballots is received by ~~chairman~~ county  
32 board of elections.

33 (2) Determination of Validity of Applications for Absentee Ballots;  
34 Handling Applications for Persons Not Registered. -- The chairman  
35 or supervisor of elections of the county board of elections shall  
36 pass upon the validity of all applications for absentee ballots  
37 received under the provisions of this Article, and ~~he~~ neither of  
38 them shall ~~not~~ delegate this responsibility.

39 If the chairman or supervisor finds that the applicant is a qualified voter of the  
40 county, that ~~he~~ the applicant is registered in the precinct stated in ~~his~~ the applicant's  
41 application, that the assertions in ~~his~~ the applicant's application are true, that they  
42 demonstrate that ~~he~~ the applicant is entitled to vote by absentee ballot under the  
43 terms of this Article, and that ~~his~~ the applicant's application is in proper form, the  
44 chairman or supervisor shall approve the application for absentee ballots.

1 If the chairman or supervisor finds that the applicant is not registered to vote in  
2 the precinct in which ~~he~~ the applicant declares ~~he~~ the applicant is a resident, the  
3 chairman shall make a reasonable investigation as to the applicant's residence. If the  
4 chairman determines that the applicant is a resident of the precinct asserted, that ~~he~~  
5 the applicant is eligible to register and vote under the Constitution and statutes of this  
6 State, and that ~~his~~ the applicant's application is otherwise in order, the chairman or  
7 supervisor shall register ~~him~~ the applicant according to the procedure specified in  
8 subdivision (3) of this section and approve ~~his~~ the applicant's application for absentee  
9 ballots.

10 (3) Record of ~~Chairman's~~ Decisions; ~~Registration by Chairman.~~  
11 Registration. -- At the time the chairman or supervisor of the  
12 county board of elections makes ~~his~~ the decision on an application  
13 for absentee ballots, ~~he~~ that person shall enter in the appropriate  
14 column in the register of military absentee ballot applications and  
15 ballots issued opposite the name of the applicant a notation of  
16 whether ~~his~~ the applicant's application was 'Approved' or  
17 'Disapproved.' In cases in which the chairman or supervisor  
18 determines that an unregistered applicant is entitled to register, ~~he~~  
19 that person shall also note in the appropriate column of the  
20 register the designation of the precinct in which the applicant is  
21 entitled to vote. This entry shall constitute registration and shall  
22 entitle an otherwise qualified applicant to receive absentee ballots.  
23 As has been the case since enactment of this Article in 1941,  
24 registration under this Article is not permanent, and is only for the  
25 election or for the calendar year as provided by this Article.

26 (4) Delivery of Absentee Ballots and Container-Return Envelope to  
27 Applicant. -- When the chairman or supervisor of the county board  
28 of elections approves an application for military absentee ballots ~~he~~  
29 that person shall promptly issue and transmit them in accordance  
30 with the following instructions:

31 a. On the top margin of each ballot the applicant is entitled to  
32 vote, the ~~chairman~~ chairman, member, supervisor, or  
33 employee of the county board of elections shall write or type  
34 the words 'Absentee Ballot No ....' or an abbreviation  
35 approved by the State Board of Elections and insert in the  
36 blank space the number assigned the applicant's application  
37 in the register of military absentee ballot applications and  
38 ballots issued. ~~He shall not write, type, or print~~ There shall  
39 not be written, typed, or printed any other extraneous  
40 matter upon the ballots transmitted to the absentee voter.  
41 Alternatively, the board of elections may cause to be  
42 barcoded on the ballot the voter's application number, if  
43 such barcoding system is approved by the State Board of  
44 Elections.

- 1                   b.    The ~~chairman~~ chairman, member, supervisor, or employee  
2                   of the county board of elections shall fold and place the  
3                   ballots (identified in accordance with the preceding  
4                   instruction) in a container-return envelope and write or type  
5                   in the appropriate blanks thereon, the absentee voter's  
6                   name, ~~his~~ the absentee voter's application number, and the  
7                   designation of the precinct in which ~~his~~ the absentee voter's  
8                   ballots are to be voted. If the ballot is barcoded under this  
9                   section, the envelope may be barcoded rather than having  
10                  the actual number appear. The ~~chairman~~ chairman,  
11                  member, supervisor, or employee of the county board of  
12                  elections shall leave the container-return envelope holding  
13                  the ballots unsealed.
- 14                  c.    The ~~chairman~~ chairman, member, supervisor, or employee  
15                  of the county board of elections shall then place the  
16                  unsealed container-return envelope holding the ballots,  
17                  together with printed instructions for voting and returning  
18                  the ballots, in an envelope addressed to the applicant at the  
19                  address stated in ~~his~~ the applicant's application, seal the  
20                  envelope, and mail it at the expense of the county board of  
21                  elections.

22   "§ 163-250. Voting absentee ballots and transmitting them to chairman of county  
23 board of elections.

24   (a) Procedure for Voting Absentee Ballots. -- In the presence of two persons who  
25 are at least 18 years of age, and who are not disqualified by G.S. 163-226.3(a)(4) or  
26 G.S. 163-274(5a), the voter shall:

- 27               (1)   Mark ~~his~~ the voter's ballots, or cause them to be marked by one of  
28               such persons in ~~his~~ the voter's presence according to ~~his~~ the voter's  
29               instructions.
- 30               (2)   Fold each ballot separately, or cause each of them to be folded in  
31               ~~his~~ the voter's presence.
- 32               (3)   Place the folded ballots in the container-return envelope and  
33               securely seal it, or have this done in ~~his~~ the voter's presence.
- 34               (4)   Make and subscribe the certificate printed on the container-return  
35               envelope according to the provisions of G.S. 163-248(c).

36   The persons in whose presence the ballots were marked shall sign the certificate as  
37 witnesses, and shall give their addresses.

38   (b) Transmitting Executed Absentee Ballots to ~~Chairman~~ of County Board of  
39 Elections. -- When executed and witnessed in accordance with the provisions of  
40 subsection (a) of this section, the sealed container-return envelope in which executed  
41 absentee ballots have been placed shall be mailed by the voter to the ~~chairman~~ of the  
42 county board of elections ~~who~~ which issued them.

43   "§ 163-251. Certified list of approved military absentee ballot applications; record of  
44 ballots received; disposition of list; list constitutes registration.

1 (a) Preparation of List. -- The ~~chairman of the~~ county board of elections shall  
 2 prepare, or cause to be prepared, a list in quadruplicate of all military absentee  
 3 ballots returned to the county board of elections to be counted which have been  
 4 approved by the county board of ~~elections~~ elections, and which have been received  
 5 as of 5:00 p.m. on the day before the election. At the end of the list the chairman  
 6 shall execute the following certificate under oath:

7 'State of North Carolina  
 8 County of .....  
 9 I, ....., Chairman of the ..... County Board of Elections, do hereby  
 10 certify that the foregoing is a list of all executed military absentee ballots to  
 11 be voted in the election to be conducted on the ..... day of. ...., 19 .....,  
 12 which have been approved by the County Board of ~~Elections~~ Elections  
 13 and which have been received no later than 5:00 p.m. on the day before  
 14 the election. I further certify that I have issued ballots to no other persons  
 15 than those listed herein and further that I have not delivered military  
 16 absentee ballots to persons other than those listed herein; that this list  
 17 constitutes the only precinct registration of military absentee voters whose  
 18 names have not heretofore been entered on the regular registration of the  
 19 appropriate precinct.  
 20 This the ..... day of.....19 .....

21 .....  
 22 (Signature of Chairman of County  
 23 Board of Elections)  
 24 Sworn to and subscribed before me this ..... day of.... 19 .....

25 .....  
 26 (Signature of Officer administering oath)  
 27 .....  
 28 (Title of officer)'

29 (b) Distribution of List. -- No ~~earlier than 3:00 P.M. on the day before the election~~  
 30 ~~and no~~ later than 10:00 A.M. on election day, the ~~chairman~~ county board of elections  
 31 shall cause one copy of the list of executed military absentee ~~ballots~~ ballots prepared  
 32 under subsection (a) of this section, which may be a continuing countywide list or a  
 33 separate list for each precinct, to be immediately deposited as first-class mail to the  
 34 State Board of Elections. The ~~chairman~~ county board of elections shall retain one  
 35 copy in the board office for public inspection and ~~he~~ shall cause two copies of the  
 36 appropriate precinct list to be delivered to the chief judge of each precinct in the  
 37 county. The chief judge shall post one copy in the voting place and retain one copy  
 38 until all challenges of absentee ballots have been heard by the county board of  
 39 elections. Challenges shall be made as provided in G.S. 163-89.

40 After receipt of the list of absentee voters required by this section the chief judge  
 41 shall call the name of each person recorded on the list and enter an 'A' in the  
 42 appropriate voting square on the voter's permanent registration record, if any. If such  
 43 person is already recorded as having voted in that election, the chief judge shall enter

1 a challenge which shall be presented to the chairman of the county board of elections  
2 for resolution by the board of elections prior to certification of results by the board.

3 (b1) Preparation of List. -- The county board of elections shall prepare, or cause  
4 to be prepared, a list in quadruplicate of all military absentee ballots returned to the  
5 county board of elections to be counted which have been approved by the county  
6 board of elections, and which have been received after 5:00 p.m. on the day before  
7 the election but before 7:30 p.m. on election day. At the end of the list the chairman  
8 shall execute the following certificate under oath:

9 'State of North Carolina

10 County of .....

11 I, ....., Chairman of the ..... County Board of Elections, do hereby  
12 certify that the foregoing is a list of all executed military absentee ballots to  
13 be voted in the election to be conducted on the ..... day of ..... ..  
14 which have been approved by the County Board of Elections and which  
15 have been received after 5:00 p.m. on the day before the election but  
16 before 7:30 p.m. on the day of the election. I further certify that this list  
17 constitutes the only supplemental precinct registration of military absentee  
18 voters whose names have not heretofore been entered on the regular  
19 registration of the appropriate precinct.

20 This the ..... day of..... ..

21 .....

22 (Signature of Chairman of County

23 Board of Elections)

24 Sworn to and subscribed before me this ..... day of..... ..

25 .....

26 (Signature of Officer administering oath)

27 .....

28 (Title of officer)'

29

30 No later than 10:00 p.m. on election day, the county board of elections shall cause  
31 one copy of the list of executed military absentee ballots, which may be a continuing  
32 countywide list or a separate list for each precinct, to be immediately deposited as  
33 'first-class' mail to the State Board of Elections. The board shall retain one copy in  
34 the board office for public inspection. In addition the county board of elections shall,  
35 upon request, provide a copy of the complete list to the chairman of each political  
36 party, recognized under the provisions of G.S. 163-96, represented in the county.  
37 Challenges shall be made to absentee ballots as provided in G.S. 163-89.

38 On or before the day of the canvass by the county board of elections, a member or  
39 employee of the board of elections shall call the name of each person recorded on  
40 the list and enter an 'A' in the appropriate voting square on the voter's permanent  
41 registration record, if any. If such person is already recorded as having voted in that  
42 election, the supervisor of elections shall enter a challenge which shall be presented  
43 to the county board of elections for resolution by the board of elections prior to  
44 certification of results by the board.

1 (c) List Constitutes Registration. -- The 'List of Applicants for Military Absentee  
2 Ballots to Whom Ballots Have Been Issued' prescribed by subsections (a) and (b) of  
3 this section, when delivered to the chief judges of the various precincts, shall  
4 constitute the only precinct registration of the military absentee voters listed thereon  
5 whose names are not already entered in the registration records of the appropriate  
6 precinct. Chief judges shall not add the names of persons listed on the military  
7 absentee list to the regular registration books of their precincts.

8 (d) Counting Ballots, Hearing Challenges. -- The county board of elections shall  
9 count military ballots as provided for civilian absentee ballots in G.S. 163-234, and  
10 shall hear challenges as provided in G.S. 163-89.

11 "~~§ 163-253. Article inapplicable~~ Applicability to persons after change of status;  
12 reregistration required: status.

13 ~~Upon discharge from the armed forces of the United States or~~ The termination of  
14 ~~any other status qualifying him~~ a person to register and vote by absentee ballot under  
15 the provisions of this Article, ~~the voter shall not be entitled to vote by military~~  
16 ~~absentee ballot, and if he was registered under the provisions of this Article his~~  
17 ~~registration shall become void and he shall be required to register under the~~  
18 ~~provisions of Article 7 before being entitled to vote in any primary or election.~~ does  
19 not invalidate any application made or ballot returned while the person was eligible.

20 "~~§ 163-254. Registration and voting on primary or election day.~~

21 ~~Notwithstanding any other provisions of Chapter 163 of the General Statutes, any~~  
22 ~~person entitled to vote an absentee ballot pursuant to G.S. 163-245 shall be permitted~~  
23 ~~to register in person at any time including the day of a primary or election. Should~~  
24 ~~such person's eligibility to register or vote as provided in G.S. 163-245 terminate after~~  
25 ~~the registration records have closed prior to a primary or election, such person, if he~~  
26 ~~appears in person, shall be entitled to register if otherwise qualified during the time~~  
27 ~~the records are closed, or on the primary or election day, and shall be permitted to~~  
28 ~~vote if such person is otherwise qualified. If any person was eligible to vote an~~  
29 ~~absentee ballot under this Article on the last day to submit voter registration~~  
30 ~~applications in person under G.S. 163-82.6(c)(2), that person may register and vote~~  
31 on election day in accordance with G.S. 163-82.6(d).

32 "~~§ 163-255. Absentee voting at office of board of elections.~~

33 ~~Notwithstanding any other provisions of Chapter 163 of the General Statutes, any~~  
34 ~~person eligible to vote an absentee ballot pursuant to G.S. 163-245 shall be permitted~~  
35 ~~to vote an absentee ballot pursuant to G.S. 163-227.2 if the person has not already~~  
36 ~~voted an absentee ballot which has been returned to the board of elections, and if he~~  
37 the person will not be in the county on the day of the ~~primary or~~ election.

38 In the event an absentee application or ballot has already been mailed to such  
39 person applying to vote pursuant to G.S. 163-227.2, the board of elections shall void  
40 the application and ballot unless the voted absentee ballot has been received by the  
41 board of elections. Such person shall be eligible to vote pursuant to G.S. 163-227.2 no  
42 later than 5:00 P.M. on the ~~day~~ Friday next preceding the ~~primary, second primary or~~  
43 election.

44 "~~§ 163-256. Regulations of State Board of Elections.~~

1 The State Board of Elections shall adopt rules ~~and regulations~~ to carry out the  
 2 intent and purpose of G.S. 163-254 and 163-255, and to ensure that a proper list of  
 3 persons voting under said sections shall be maintained by the boards of elections, and  
 4 to ensure proper registration records, and such rules ~~and regulations~~ shall not be  
 5 subject to the provisions of G.S. 150B-9.

6 "§ 163-256.1. Compliance with Uniformed and Overseas Citizens Absentee Voting  
 7 Act.

8 (a) In order to comply with the Uniformed and Overseas Citizens Absentee  
 9 Voting Act, 42 U.S.C. 1973ff et. seq., the State Board of Elections shall by rule  
 10 provide for:

- 11 (1) Overseas voters as defined in that act who are not eligible under  
 12 this Article or Article 20 of this Chapter to register and vote in any  
 13 federal general election if the application is received no later than  
 14 30 days before the election. Such application may be received my  
 15 mail, by fax, or in person from the voter or a near relative.  
 16 (2) Overseas voters as defined in that act to use a federal write-in  
 17 absentee ballot under that act.

18 (b) In accord with suggestions of the Federal Voting Assistance Program of the  
 19 Department of Defense, the State Board of Elections shall by rule provide for:

- 20 (1) Overseas voter as defined in that act to use a federal write-in  
 21 absentee ballot under that act for primary and special elections for  
 22 federal office, including the Presidential Preference Primary.  
 23 (2) Acceptance of the Federal Write-In Absentee Ballot transmission  
 24 envelope as a request for registration for that election as an  
 25 overseas absentee voter for the federal election involved where the  
 26 person is eligible under the act and the request is received not less  
 27 than 30 days before the election.  
 28 (3) If a person is a citizen of the United States, but has never been  
 29 domiciled in the United States, but that person's parent is  
 30 registered to vote in this State for that person to be eligible to vote  
 31 under that act as if that person was an overseas voter as defined in  
 32 that act but for the fact of never having a domicile in this State."

33 Sec. 2. G.S. 163-82.6(d)(1) reads as rewritten:

- 34 "(1) Include those who during that time period are naturalized as  
 35 citizens of the United States or who are restored to citizenship  
 36 after a conviction of a ~~felony; but felony,~~ and those who were  
 37 eligible to vote an absentee ballot under Article 21 of this Chapter  
 38 on the last day to submit voter registration applications in person  
 39 under G.S. 163-82.6(c)(2), but did not do so, and who are on the  
 40 day of the election not eligible to vote an absentee ballot under  
 41 that Article because of not falling within any of the categories  
 42 under G.S. 163-245(b); but"

43 Sec. 3. G.S. 163-82.7(g)(2) reads as rewritten:

- 1           "(2) If the Postal Service has returned as undeliverable a notice sent  
2           within 25 days before the election to the applicant under  
3           subsection (c) of this section, then the applicant may vote only in  
4           person in that first election and may not vote by ~~mailed absentee~~  
5           ~~ballot~~ ballot except in person under G.S. 163-227.2. The county  
6           board of elections shall establish a procedure at the voting site for:  
7           a.     Obtaining the correct address of any person described in  
8                 this subdivision who appears to vote in person; and  
9           b.     Assuring that the person votes in the proper place and in  
10                the proper contests.

11           If a notice mailed under subsection (c) or subsection (e) of this  
12           section is returned as undeliverable after a person has already  
13           voted by absentee ballot, then that person's ballot may be  
14           challenged in accordance with G.S. 163-89."

15           Sec. 4. G.S. 163-137(b) reads as rewritten:

16           "(b) The ballots prepared for use in general and special elections under the  
17           provisions of this Article by the State Board of Elections shall be printed and  
18           delivered to the county boards of elections at least ~~60~~ 50 days prior to the date of any  
19           ~~election in which absentee voting is permitted and at least 60 days prior to the date of~~  
20           ~~any election in which absentee voting is not permitted.~~ election."

21           Sec. 4.1. G.S. 163-155(4) reads as rewritten:

22           "(4) The affidavit executed by the voter shall be retained by the county  
23           board of elections for a period of six months. In those precincts  
24           using ~~voting machines~~, direct record voting equipment, the county  
25           board of elections shall furnish paper ballots of each kind for use  
26           by persons authorized to vote outside the voting place by this  
27           section. In any precinct using direct record voting equipment, the  
28           county board of elections, with the approval of the State Board of  
29           Elections, may provide for all such paper ballots to be transported  
30           upon closing of the polls to the office of the county board of  
31           elections for counting. Such ballots may be transported only by  
32           the chief judge, judge, assistant, or a sworn officer of the county  
33           police department, sheriff's department, or municipal police  
34           officer. Upon receipt by the county board of elections, such ballots  
35           shall be counted and canvassed in the same manner as one-stop  
36           ballots cast under G.S. 163-227.2, except that rather than the count  
37           commencing when the polls close under G.S. 163-234(5) as  
38           provided for one-stop ballots, the count shall commence when  
39           from all precincts either ballots under this section are received or  
40           notification that no such ballots were cast.

41           The total for ballots counted by the county board of elections  
42           under this subdivision shall be canvassed as if it were a separate  
43           precinct."

44           Sec. 5. G.S. 163-169(i) reads as rewritten:

1 "(i) Absentee Ballots. -- Absentee ballots shall be deposited and voted in  
2 accordance with the provisions of G.S. 163-227.2 and G.S. 163-234; they shall be  
3 counted and tabulated as provided in this section and G.S. 163-170."

4 Sec. 6. G.S. 163-302 reads as rewritten:

5 "**§ 163-302. Absentee voting.**

6 (a) In any municipal election, including a primary or general election or  
7 referendum, conducted by the county board of ~~elections~~, elections:

8 (1) For any city, town, or incorporated village with a population of  
9 5,000 or over according to the most recent decennial federal census  
10 is permitted; and

11 (2) For any other city, town, or incorporated village or for any  
12 municipal election for a special district for which the most recent  
13 decennial federal census does not show a population, absentee  
14 voting may, upon resolution of the municipal governing body, be  
15 permitted. Such resolution must be adopted no later than 60 days  
16 prior to an election in order to be effective for that election. Any  
17 such resolution shall remain effective for all future elections unless  
18 repealed no later than 60 days before an election. A copy of all  
19 resolutions adopted under this section shall be filed with the State  
20 Board of Elections and the county board of elections conducting  
21 the election within 10 days of passage in order to be effective.

22 Absentee voting shall not be permitted in any municipal election unless such election  
23 is conducted by the county board of elections. In addition, absentee voting shall be  
24 allowed in any referendum on incorporation of a municipality.

25 (b) The provisions of Articles 20 and 21 of this Chapter shall apply to absentee  
26 voting in municipal elections, special district elections, and other elections for an area  
27 less than an entire county other than elections for the General Assembly, except that  
28 the earliest date by which absentee ballots shall be required to be available for  
29 absentee voting in such elections shall be 30 days prior to the primary or election or  
30 as quickly following the filing deadline specified in G.S. 163-291(2) or G.S. 163-  
31 294.2(c) as the county board of elections is able to secure the official ballots. ~~In~~  
32 ~~elections on incorporation of a municipality not held at the same time as another~~  
33 ~~election in the same area, the county board of elections shall adopt a special schedule~~  
34 ~~of meetings of the county board of elections to approve absentee ballot applications~~  
35 ~~so as to reduce the cost of the process, and to further implement the last paragraph of~~  
36 ~~G.S. 163-230(2)a. If no application has been received since the last meeting, no~~  
37 ~~meeting shall be held of the county board of elections under such schedule unless the~~  
38 ~~meeting is scheduled for another purpose.~~ If another election is being held in the  
39 same area on the same day, or elsewhere in the county, the cost of per diem for  
40 meetings of the county board of elections to approve absentee ballots shall not be  
41 considered a cost of the election to be billed to the municipality being created."

42 Sec. 7. G.S. 159-61(b) reads as rewritten:

43 "(b) The date of a bond referendum shall be fixed by the governing board, but  
44 shall not be less than 60 days after the date the election is called nor more than one

1 year after adoption of the bond order. The governing board may call a special referendum for the purpose of voting on a bond issue on any day, including the day of any regular or special election held for another purpose (unless the law under which the bond referendum or other election is held specifically prohibits submission of other questions at the same time). A special bond referendum may not be held within 30 days before or 10 days after a statewide primary, election, or referendum, or within 30 days before or 10 days after any other primary, election, or referendum to be held in the same unit holding the bond referendum and already validly called or scheduled by law at the time the bond referendum is called. The clerk shall mail or deliver a certified copy of the resolution calling a special bond referendum to the board of elections that is to conduct it within three days after the resolution is adopted, but failure to observe this requirement shall not in any manner affect the validity of the referendum or bonds issued pursuant thereto. Bond referenda shall be conducted by the board of elections conducting regular elections of the county, city, or special district. In fixing the date of a bond referendum, the governing board shall consult the board of elections in order that the referendum shall not unduly interfere with other elections already scheduled or in process. Several bond orders or other matters may be voted upon at the same referendum."

19           Sec. 8. Section 3.7 of the Charter of the City of High Point, being Chapter 501 of the 1979 Session Laws reads as rewritten:

21       "Sec. 3.7. Absentee voting. The provisions of Articles 20 and 21 of Chapter 163 of the General Statutes shall be applicable to all municipal elections and primaries in the City of High Point, ~~provided that absentee ballots shall not be permitted in a second primary or runoff election.~~ Point. The Guilford County Board of Elections shall administer the absentee voting laws for all municipal elections in the City of High Point and is hereby authorized to adopt rules and regulations which may be necessary to adapt the procedures of Articles 20 and 21 of Chapter 163 to municipal elections."

29           Sec. 9. Section 5 of Chapter 232 of the 1971 Session Laws reads as rewritten:

31       "Sec. 5. The elections to be held in 1972 and thereafter shall be held and conducted by the County Board of Elections and said elections shall be conducted under the same laws, rules and regulations governing elections for county ~~officers,~~ officers. ~~except that absentee ballots shall not be allowed.~~ Any qualified voter residing in the Administrative Unit shall be eligible to seek office to the Board of Trustees, and to vote in said elections."

37           Sec. 10. Section 4.8 of the Charter of the Town of Cary, being Chapter 868 of the 1971 Session Laws, is repealed.

39           Sec. 11. Section 4.3 of the Charter of the Town of Mebane, being Chapter 514 of the 1973 Session Laws, is repealed.

41           Sec. 12. Chapter 91 of the 1977 Session Laws is repealed.

42           Sec. 13. Section 5.18 of the Charter of Bessemer City, being Chapter 1018 of the 1981 Session Laws is repealed.

44           Sec. 14. Section 5 of Chapter 442 of the 1977 Session Laws is repealed.

1           Sec. 15. Section 1 of Chapter 603 of the 1977 Session Laws reads as  
2 rewritten:

3       "Section 1. The Orange County Board of Education shall be elected on a  
4 nonpartisan basis at the time of the primary election in 1978 and biennially  
5 thereafter. The names of the candidates shall be printed on the ballots without  
6 reference to any party affiliation. The election and runoff election method shall be  
7 used with the results determined as provided in G.S. ~~163-293~~, and absentee ballots  
8 ~~shall be permitted. 163-293~~. Except as may be otherwise provided herein, the  
9 elections shall be conducted according to the provisions of Chapter 163 of the  
10 General Statutes governing elections for county officers."

11           Sec. 16. Section 6 of Chapter 633 of the 1977 Session Laws is repealed.

12           Sec. 17. The last two sentences of Section 4 of Chapter 126, Session  
13 Laws of 1963, as amended by Chapter 22, Session Laws of 1977, as amended by  
14 Section 1 of Chapter 89, Session Laws of 1979, reads as rewritten:

15       "All candidates for membership of the consolidated school system for the various  
16 districts shall file a notice of such candidacy no earlier than the first Monday in July,  
17 and no later than 12:00 noon on the third Friday in August preceding the general  
18 election and each candidate shall pay a filing fee of ten dollars (\$10.00) and shall  
19 certify in writing the election district for which ~~he~~ the candidate is filing and that ~~he~~  
20 the candidate is a bona fide resident and qualified voter thereof. The election of  
21 members for the consolidated school system shall be held, conducted and supervised  
22 by the Haywood County Board of Elections and, except as otherwise provided herein,  
23 such election shall be held in accordance with the laws and regulations for the  
24 election of county officers. ~~Absentee ballots shall be permitted in the election.~~"

25           Sec. 18. Section 3 of Chapter 81 of the 1985 Session Laws is repealed.

26           Sec. 19. (a) Except as provided by subsection (b) of this section, to the  
27 extent of the conflict, this act prevails over any local act in conflict with it.

28           (b) This act does not amend or repeal:

29           (1) Section 12 of Chapter 763 of the 1981 Session Laws;

30           (2) Chapter 1157 of the 1981 Session Laws;

31           (3) Chapters 192 or 978 of the 1983 Session Laws;

32           (4) Chapter 935 of the 1983 Session Laws;

33           (5) Chapter 359 of the 1987 Session Laws;

34           (6) Section 11(a) of Chapter 391 of the 1991 Session Laws; or

35           (7) Chapter 35 of the 1993 Session Laws.

36           Sec. 20. This act applies to elections held on or after January 1, 1996,  
37 except that the State Board of Elections may issue rules required or permitted by this  
38 act prior to that date.

SUMMARY OF  
LEGISLATIVE PROPOSAL II -- ABSENTEE VOTING REFORM

Proposal II is a comprehensive revision of the Absentee Voting Laws, Articles 20 and 21 of Chapter 163 of the General Statutes.

The proposal includes the following:

1) **NO EXCUSE ABSENTEE VOTING.** Article 20 of Chapter 163 of the General Statutes is amended to provide that absentee ballots for registered voters would not require that the voter be out of the county on election day, but merely that the voter expects to not be present at the polling place to vote on election day. This proposal, which has been referred to as "no excuse absentee voting" was introduced by Representative Lemmond in 1993 and passed the House that year as part of another bill. The legislation would retain illness as an additional absentee ballot option if it arose after the Tuesday before the election. The commission recognizes that this may result in an increase in absentee voting, and that the entire absentee process needs to be streamlined for both the voter and election officials.

2) **SIMULTANEOUS MAIL-OUT CODIFICATION.** The bulk of absentee ballots in this State are issued under G.S. 163-230.1, enacted in 1983, which requires sending out the application and ballot together when the voter personally makes a request by mail. That statute never repealed or specifically amended the many sections that provide for a written request for an application, then the sending out of the official application, then approval by the Board of Elections followed by mail-out of the ballot. This latter procedure survives only when a near-relative makes a request by mail. The proposal rewrites Article 20 so that the application and ballot issuance process are integrated in the statutes.

3) **NEAR RELATIVE APPLICATION.** The existence of a procedure for near relatives to make application for the ballot leads to several different procedures for handling the ballots depending on how the request is made. This is unnecessarily complicated. It is proposed that only the voter be allowed to actually request the ballot, and upon such request, the ballot and application would be sent out together. Near relatives could still be involved in the process. They would be allowed to REQUEST, on a form available from the county board of elections, that an absentee ballot and application be sent to the near relative. This would simplify the main forms and procedures.

4) **ADDITIONAL SITES FOR ONE-STOP ABSENTEE VOTING.** Currently, general law provides that one-stop absentee voting must take place in the office of the county board of elections. It is proposed that counties, at their own option and expense, be allowed to designate one or more additional sites within the county for one-stop voting during the same period as one-stop voting is allowed in the board office. This is a three business week period from the 22nd day before the election (a Monday) through Friday before the election. Counties would have to have an implementation plan approved by the State Board of Elections to ensure ballot security and to protect against double voting.

5) APPLICATION FORM BE PRINTED ON BALLOT RETURN ENVELOPE. Currently, the application form is a separate piece of paper, which must be signed with one witness, than placed in a large envelope along with the sealed container-return envelope which has the ballots in it. The container-return envelope itself has places to fill in on the outside and two witnesses are required. It is proposed that both the simplified application and the voting certificate be placed on the container-return envelope, reducing the mailing by one form and one envelope, and making it much less likely that the voter would forget to fill out part of the necessary applications.

6) NUMBER OF WITNESSES. Current law requires one witness for the application, and two for the ballot. The committee has proposed that the application and ballot envelope certificate be merged, and that two witnesses be required.

7) SIMPLIFICATION OF PROCESS. The absentee ballot process is extremely formalized. Currently, laborious entries are required on applications, envelopes, and registers, and mandatory board meetings held to approve applications. It is proposed to eliminate the requirement of scheduled board meetings to approve applications. Instead, lists of names of persons who have requested applications would be posted at 10:00 A.M. each business day during the process, covering applications received through the close of the previous business day. Any voter could, with reasonable and specific grounds, contest the request application. The board would then meet on the contest no later than the next business day after the contest is made. If the contest is made before the ballot is mailed out, it would be held for resolution. If the contest is made after that point, and the application rejected, the ballot would not be counted (or would be withdrawn from the count if the contest is not resolved until after the ballots are counted.)

Also, the board must now approve in meetings that the ballot certificate has been properly filled out. The draft provides that the board may do this all in one meeting before ballots are counted, or may delegate this task to the supervisor.

Currently, Article 21 of Chapter 163 of the General Statutes does not require board meetings to approve military absentee ballots, but requires the chairman to approve them. It is proposed that either the chairman or the supervisor could handle this duty.

8) SIMPLIFICATION OF ONE-STOP BALLOTS. Currently, one-stop voters go through the same paperwork as those voting by mail. It is proposed that a one-stop voter would fill out an application, which would be witnessed by a board member or employee. The voter would then vote a paper ballot or computer counted ballot card. (A voting machine which did not have a hard copy of each voter's numbered ballot would not be allowed, since there would be no way of dealing with challenges) The ballot or card would be deposited in the ballot box or ballot counter just like in a precinct. These one-stop ballots would then be counted on election day. If they are to be counted by hand, the count would begin at the time mail-in ballots are counted. If they are to be counted by machine, the count would take place at the time the polls close. This would greatly speed up the process on election day. Even if the county used hand counted paper ballots for one-stop absentees, the time involved in opening the envelopes on election day would be eliminated. There

would be a State board approved system to secure the voting equipment when the board office is closed.

9) **FIRE DISTRICT ELECTIONS.** Absentee voting is currently not allowed in fire district elections. There appears to be no significant reasons for this exclusion. It is there because the board of elections needs to verify that the voter lives in the district for this one-time election. It is proposed to repeal the restriction.

10) **MUNICIPAL ABSENTEE VOTING.** Currently, absentee voting is optional for municipalities, largely because of the cost burden on small towns, and is not allowed (except for four towns by local act) for cities which have their elections conducted by municipal boards of elections because of the inexperience of such boards. Since the commission's proposals will greatly reduce paperwork, printing, mailing, per diem, and staff expense in absentee voting, more municipalities may be willing to allow absentee voting. The commission notes that ALL county elections have absentee voting, and proposes that where the county conducts the election, absentee voting be allowed in all municipalities of populations of 5,000 or over, but continue to be optional for smaller municipalities which have their elections conducted by the county. Absentee voting for elections conducted by municipal boards of elections would continue to be allowed only by local act.

11) **BALLOT SECRECY.** Current law requires the ballot number to be placed on the ballot. This interferes with secrecy, but does allow fraudulent ballots that have been successfully challenged to be removed from the vote count. The committee proposes that counties, as an option to the current system, be allowed to barcode the ballots so that they can still be identified and retrieved if a challenge is sustained, but it would be less likely that the identity of the voter would be revealed if there is no successful challenge.

12) **TIME FOR ABSENTEE VOTING.** The Commission discussed the relationship of the absentee voting period (which now starts at 50 days before the election for mail-ins and 22 days before the election for one stop) to other parts of the election process and decided to make no changes. The commission noted that currently, cities and counties may call bond elections after the 50-day absentee period has begun, which can cause problems if the bond issue is on the same date as a State primary or general election. The committee proposes to amend the bond laws so that the local government action in calling the election must occur at least 60 days before the election.

13) **CONFORMANCE TO FEDERAL LAW.**

a. **COUNTING OF BALLOTS RECEIVED UP UNTIL THE POLLS CLOSE.** The Voting Rights Act Amendments of 1970, 42 USC § 1973 aa-1(d), provides that states MUST count absentee ballots for President from persons who will be out of the county on election day if they are received by the time the polls closed. The state had a separate procedure for absentee registration for President, which is required by the same act, but enforced the 5:00 p.m. deadline on the day before the election for return of ballots on all ballots except the special presidential ballot for those who registered by mail for that office only. Ballots for President received from regular absentee voters on election day were not counted, which appears to conflict with the federal law. It is proposed that all ballots are to be counted if they are received by

7:30 p.m. the time the polls are scheduled to close. Under the revised system, a list of ballots received would still go out to the polls on election day showing whose ballots had been returned by 5:00 p.m. on the day previous. The Board of Elections would prepare on election evening a list of all ballots received from 5:00 p.m. that day until 7:30 p.m. on election day. That list would be checked against the voter records no later than canvass day to update voting histories and to ensure against double voting. If the voter had voted in the precinct, the absentee ballot would be challenged by the supervisor.

b. **UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.** Federal law now has a requirement that military and overseas voters be allowed to register to vote for federal offices by mail and vote by absentee ballot. State law requires an overseas voter to claim domicile to register to vote for all elections, so the federal only ballot needs to be retained for persons who are no longer residents but who are still citizens and whose last domicile was in North Carolina. No state compliance legislation has ever been passed, and the State Board has been handling it administratively. It is proposed that the law be amended to allow the State Board of Elections to comply by regulation with the Uniformed and Overseas Citizens Absentee Voting Act. This will specifically allow use of the Federal Write-In Ballot for Overseas Voters, and allow the Overseas Voters to cast ballots in federal elections. Some additional requests were received from the Federal Voting Assistance Program of the Department of Defense in the past week, these are discussed below.

c. **FEDERAL WRITE-IN BALLOT.** Federal law also requires the state to accept for federal offices a "federal write-in ballot" if the state does not send out an absentee ballot at least 60 days in advance and if the voter applied for a state absentee ballot at least 30 days before the election. It is proposed to give the State Board of Elections the power by rule to provide for these ballots and how to count them. This is discussed in more detail in paragraph 13 above.

14) **DEFINITION OF MILITARY.** The current state law on military absentee voting contains a definition of the military that has not been amended since 1943. It is proposed to adopt the definition of military contained in the Uniformed and Overseas Citizens Absentee Voting Act which was adopted in 1987, but making it clear that members of the national guard and military reserve who are absent on active duty on election day can continue to use the procedure. Eliminated would be special references to persons in VA hospitals, the Peace Corps, or civilians serving with the armed forces overseas. Since anyone can register by mail now, the special provisions for Peace Corps, VA Hospital, and civilian Department of Defense Employees are not needed, and persons in these categories who are overseas can still get a federal ballot if they are not registered under our normal procedures.

15) **FAXING OF APPLICATIONS AND BALLOTS.** The General Assembly has considered legislation to allow applications and/or ballots to be faxed, for just overseas voters or for all voters. Senator Gunter introduced such legislation in the 1993 Session which passed the Senate. The Commission proposes that requests for absentee ballots (whether made by the voter, or made by the near relative on the request for application form) may be received by the Board of Elections by FAX if the Board of Elections or the County Manager has a FAX machine, and if the FAXed request has a signature on it. (This would not allow FAXes generated by computer fax boards where the FAX does not have the signature on it). FAXing of the ballot

either way is NOT proposed at this time. This would cover civilian, military, and overseas ballots.

16) **TECHNICAL CHANGES.** Numerous technical changes have been noted. The following are proposed by the Commission:

a. numerous forms mention "19" as the beginning of the year. With the millennium fast approaching, this needs to be eliminated. About one-quarter of all the references in the General Statutes to "19" as the beginning of the year occur in the absentee ballot laws.

b. G.S. 163-82.7(g)(2), enacted in 1994 as part of the absentee registration law, denies absentee ballots to those who have registered by mail but the postal service has not been able to verify the address. This needs to be cross-referenced in G.S. 163-226, as does the optional municipal absentee voting in G.S. 163-302.

c. G.S. 163-226.3(a)(4) allows the person notarizing the absentee ballot to assist a person voting in a nursing home. The notarization requirement was eliminated in the 1980's and this reference needs to be deleted.

d. G.S. 163-137(b) provides that the State is to get ballots to the counties at least 60 days before the election. This should have been changed to 50 days when the absentee deadline was changed from 60 days to 50 days in the 1980's.

e. G.S. 163-229(a) states that absentee ballots need to be the same as official ballots. This predates 1973 when absentee ballots went back to the precincts to be counted and were placed in the official box with the other ballots. Now that all the ballots are counted separately, this requirement needs to be deleted, since often times the absentee ballots MUST be different, because of time constraints, the type of voting systems used in the precincts, etc.

f. G.S. 163-236 makes the chair of the county board of elections sole custodian of much absentee voting material. This is difficult to do in practice. This is replaced to allow the chair, and member, officer (such as the supervisor), or employee to be custodian.

g. G.S. 163-232 requires certain records to be kept 4 years while the federal law requires it be kept only for 22 months.

h. All references in Articles 20 and 21 of Chapter 163 of the General Statutes are made gender-neutral.

17) **CHANGE OF STATUS.** G.S. 163-253 and -254 contain confusing provisions about absentee voting when a military voter has been discharged after voting but before the election. It is proposed that the requirement that an absentee ballot not be counted if the voter is discharged after casting it be eliminated, and that if a military voter is discharged after the registration deadline, election day registration be allowed under the same procedures as voters naturalized after the registration deadlines.

18) **CONTINUING APPLICATIONS.** Currently, military absentee voters can have their application valid for an entire calendar year. It is proposed that the statutes be amended to allow persons with a continuing disability be issued absentee ballots for the calendar year.

19) **PERMANENT REGISTRATION OF MILITARY ABSENTEE VOTERS.** The registration of military absentee voters has always been treated as temporary. The Commission decided against making such registrations

permanent, since such persons can now avail themselves of the procedures now allowed for all residents to register by mail. It is made clear that the registrations are temporary. It is suggested that the State Board of Elections SPECIFICALLY NOTE on the instruction sheet that the registration is temporary

20) REPEAL OF CONTRARY LOCAL ACTS. There are several local acts stating that absentee voting is not allowed in a particular election. In actuality, absentee voting apparently is allowed in these communities under the general law, even though the local act should have prevailed. There are a number of local acts which specifically say that absentee is allowed. None of these is necessary under the general law. It is proposed that these two categories be repealed. There are two categories of local acts which it is suggested be retained: Authority for special absentee voting periods for the Rocky Mount-Nash school board runoffs, Wake County Commissioner vacancy special primaries, a local act allowing Orange County to have a one-stop voting site in the Chapel Hill vicinity, and four local acts allowing absentee voting in municipal board of elections' conducted municipal election.

21) WITNESSES. It is proposed to clarify in the statutes that candidates not be allowed to witness absentee ballots, and that nursing home personnel not be allowed to witness applications of residents of the home.

22) LATE APPLICATION DEADLINE FOR ILLNESS. Currently, the deadline for making application for illness occurring after Tuesday before the election is 5:00 p.m. on the day before the election. It is proposed this be changed to noon on the day of the election.

23) SUGGESTIONS FROM FEDERAL VOTING ASSISTANCE PROGRAM. In its letter of December 23, 1993, the Federal Voting Assistance Program made a number of recommended changes. The following changes were suggested by the Federal agency.

a. Allow the Federal Write-In Ballot to include State officers. THIS PROPOSAL IS NOT IMPLEMENTED AT THIS TIME. IT IS NOTED THAT TO THE EXTENT THAT CONGRESS HAS EXTENDED THE VOTE FOR FEDERAL ELECTIONS TO PERSONS OVERSEAS WHO NO LONGER HAVE ANY DOMICILE, AND FURTHER PROVIDED THAT SUCH APPLICATION MAY NOT TRIGGER STATE INCOME TAXATION, THAT THESE PERSONS SHOULD BE ABLE TO VOTE IN STATE ELECTIONS. To get a state ballot, such persons can claim domicile and register by mail under procedures enacted by the 1993 General Assembly in compliance with the National Voter Registration Act of 1993.

b. Change reference to the Federal Statute. DONE

c. Electronic transmission of election materials. The Federal letter suggested that applications and ballots be able to be faxed in and out. IT IS PROPOSED THAT APPLICATIONS CAN BE FAXED TO BOARDS OF ELECTIONS, INCLUDING THE FEDERAL POSTCARD APPLICATION, BUT THAT BALLOTS NOT BE FAXED.

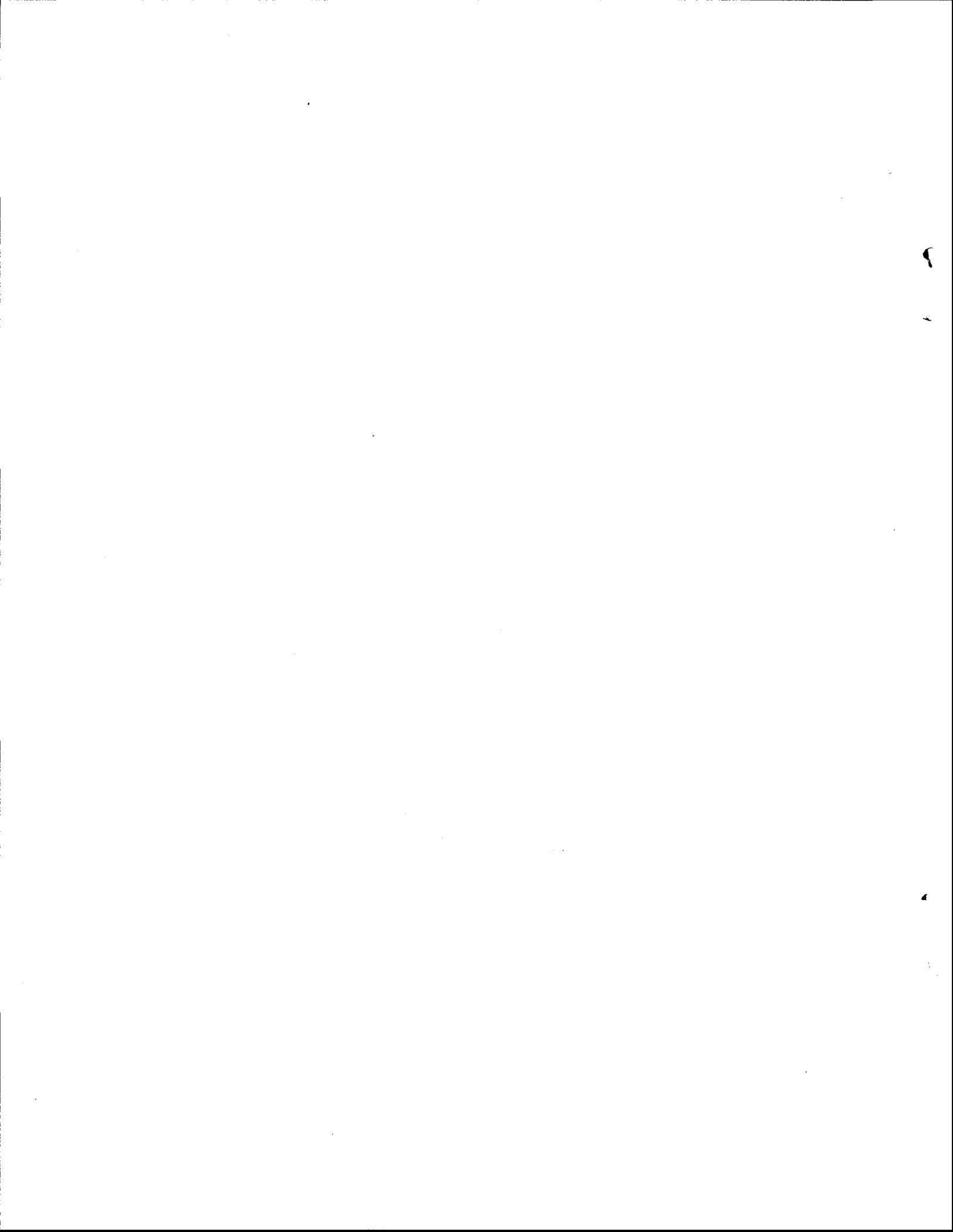
d. Expand use of Federal write-in ballot. It was suggested to allow the Federal Write-In Ballot for Overseas Voters be allowed in congressional primaries and special elections. DONE.

e. Use of Federal Write-in ballot for Overseas Voter as application. It was suggested to allow the FWAB transmittal envelope for Overseas Voters in Federal Elections as the application. DONE.

f. Overseas Voters with no domicile. The Federal law requires former North Carolina residents who are now overseas and have abandoned their North Carolina domicile to get Federal ballots from North Carolina. Not covered by the federal law is children of such persons who were born overseas after their parents abandoned domicile, and while they are American citizens, they never had domicile. It is suggested that in such case of the parents are registered voters in North Carolina, the children be allowed to vote by Overseas Ballot in Federal Elections. DONE.

g. Emergency Authority. It was suggested to allow the State Elections Director in emergency situations to provide alternate means for handling absentee voting. THIS IS NOT IMPLEMENTED, AS THE BILL ITSELF GREATLY INCREASES THE ABILITY TO CAST ABSENTEE BALLOTS, AND ITS IMPLEMENTATION NEEDS TO BE CAREFULLY EVALUATED.

24) EFFECTIVE DATE. The bill will become effective for elections occurring on or after January 1, 1996, but the State Board of Elections may adopt necessary rules before then.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

95-RR-004

THIS IS A DRAFT 12-JAN-95 09:20:00

Short Title: Donor's Occupation.

(Public)

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Sponsors: Representative/Senator

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE THAT INFORMATION TO BE REPORTED CONCERNING  
3 CAMPAIGN CONTRIBUTORS SHALL INCLUDE OCCUPATION, EMPLOYER'S NAME,  
4 AND BUSINESS ADDRESS.  
5 The General Assembly of North Carolina enacts:  
6           Section 1. G.S. 163-278.8(c) reads as rewritten:  
7       "(c) A treasurer may not accept a contribution of more than one  
8 hundred dollars (\$100.00) from a nonresident of this State unless  
9 the contribution is accompanied by a written statement setting  
10 forth the ~~name and address~~ name, home mailing address,  
11 occupation, employer's name, and business mailing address of each  
12 contributor."  
13           Sec. 2. G.S. 163-278.8(d) reads as rewritten:  
14       "(d) A treasurer shall not be required to report the name of  
15 any individual who is a resident of this State who makes a total  
16 contribution of one hundred dollars (\$100.00) or less but he  
17 shall instead report the fact that he has received a total  
18 contribution of one hundred dollars (\$100.00) or less, the amount  
19 of the contribution, and the date of receipt. If a treasurer  
20 receives contributions of one hundred dollars (\$100.00) or less,  
21 each at a single event, he may account for and report the total  
22 amount received at that event, the date and place of the event,  
23 the nature of the event, and the approximate number of people at  
24 the event. With respect to the proceeds of sale of services,

1 campaign literature and materials, wearing apparel, tickets or  
2 admission prices to campaign events such as rallies or dinners,  
3 and the proceeds of sale of any campaign-related services or  
4 goods, if the price or value received for any single service or  
5 goods exceeds one hundred dollars (\$100.00), the treasurer shall  
6 account for and report the name of the individual paying for such  
7 services or ~~goods~~, goods and other information concerning the  
8 individual required in G.S. 163-278.11(a)(1), the amount  
9 received, and the date of receipt, but if the price or value  
10 received for any single service or item of goods does not exceed  
11 one hundred dollars (\$100.00), the treasurer may report only  
12 those services or goods rendered or sold at a value that does not  
13 exceed one hundred dollars (\$100.00), the nature of the services  
14 or goods, the amount received in the aggregate for the services  
15 or goods, and the date of the receipt."

16 Sec. 3. G.S. 163-278.11 reads as rewritten:  
17 "§ 163-278.11. Contents of treasurer's statement of receipts and  
18 expenditures.

19 (a) Statements filed pursuant to provisions of this Article  
20 shall set forth the following:

21 (1) Contributions. -- A list of all contributions  
22 required to be listed under G.S. 163-278.8 received  
23 by or on behalf of a candidate, political  
24 committee, or referendum committee. The statement  
25 shall list the ~~name and complete mailing address~~  
26 name, home mailing address, occupation, employer's  
27 name, and business mailing address of each  
28 contributor, the amount contributed, and the date  
29 such contribution was received. The total sum of  
30 all contributions to date shall be plainly  
31 exhibited. Forms for required reports shall be  
32 prescribed by the Board.

33 (2) Expenditures. -- A list of all expenditures  
34 required under G.S. 163-278.8 made by or on behalf  
35 of a candidate, political committee, or referendum  
36 committee. The statement shall list the name and  
37 complete mailing address of each payee, the amount  
38 paid, the purpose, and the date such payment was  
39 made. The total sum of all expenditures to date  
40 shall be plainly exhibited. Forms for required  
41 reports shall be prescribed by the Board.

42 (3) Loans. -- Every candidate and treasurer shall  
43 attach to the campaign transmittal submitted with  
44 each report an addendum listing all proceeds

1                    derived from loans for funds used or to be used in  
2                    this campaign. The addendum shall be in the form as  
3                    prescribed by the State Board of Elections and  
4                    shall list the amount of the loan, the source, the  
5                    period, the rate of interest, and the security  
6                    pledged, if any, and all makers and endorsers.

7                    (b) Statements shall reflect anything of value paid for or  
8                    contributed by any person or individual, both as a contribution  
9                    and expenditure."

10                    Sec. 4. This act becomes effective January 1, 1996, and  
11                    applies to the reporting of all contributions accepted on or  
12                    after that date.

## SUMMARY OF LEGISLATIVE PROPOSAL III --

### DONOR'S OCCUPATION

Proposal III would require treasurers filing campaign-finance reports to report not only a contributor's name and address, but also that contributor's occupation, employer's name, and business address.

Under current North Carolina law, a person who contributes more than \$100 must be reported by name and address in the donee's campaign-finance report. Federal campaign law, however, which governs elections for President and Congress, requires the reporting of the donor's occupation and employer's name.

Proposal III would change the North Carolina law so that anyone who gives more than \$100 to a candidate or political committee would have to appear in the donee's report by name, home mailing address, occupation, employer, and business mailing address. The wording is patterned after that in the Arkansas statute.

The essence of this proposal was recommended by the LRC Study Committee on Election Laws Review to the 1994 Short Session. It was introduced as Senate Bill 1563, which became a vehicle for a number of other campaign-finance reform changes and did not pass.

As presented here, Proposal III is Senate Bill 1563 as amended by a Senate committee. That committee altered somewhat the wording of the mailing-address requirement and removed a provision in the original bill that would have placed a restriction on the solicitation or commercial use of campaign-finance records.

The proposal would make the change effective for contributions received on or after January 1, 1996.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1995

D

95-RR-005

THIS IS A DRAFT 12-JAN-95 09:28:12

Short Title: Labor Day Report.

(Public)

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Sponsors: Representative/Senator

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE CAMPAIGN LAWS TO CHANGE THE SYSTEM OF  
3 POSTPRIMARY REPORTING FOR STATEWIDE NONJUDICIAL CANDIDATES AND  
4 FOR CANDIDATES FOR THE GENERAL ASSEMBLY.  
5  
6 The General Assembly of North Carolina enacts:  
7 Section 1. G.S. 163-278.9(a)(3) reads as rewritten:  
8 "(3) Postprimary Report(s) Report(s) for Nonstatewide,  
9 Nonlegislative Candidates and for Judicial  
10 Candidates. -- The treasurer shall file a report  
11 with the Board no later than the 30th day after the  
12 primary election if the candidate was eliminated in  
13 the primary. If there is a second primary, the  
14 treasurer shall file a report with the Board no  
15 later than the 30th day after the second primary  
16 election if the candidate was eliminated in the  
17 second primary. This subdivision applies only to  
18 candidates for offices not elected statewide,  
19 excluding candidates for the General Assembly, and  
20 to candidates for all judicial offices, regardless  
21 of whether elected statewide."  
22 Sec. 2. G.S. 163-278.9(a) is amended by adding a new  
23 subdivision to read:



## SUMMARY OF LEGISLATIVE PROPOSAL IV -- LABOR DAY REPORT

Proposal IV would replace the current postprimary report of campaign finances for defeated primary candidates with a report around Labor Day that would apply to all candidates, including those who won and lost in the primary.

This change in reporting would apply to candidates for statewide nonjudicial offices and to candidates for the General Assembly. Others would be subject to the current schedule.

Under current North Carolina law, all candidates and political committees must file reports 10 days before the primary. Any candidate who loses a primary must file a report within 30 days after the primary. But the candidate who wins the nomination does not have to file a report between the 10th day before the primary and the 10th day before the general election--about six months.

Proposal 2 would make defeated primary candidates and nominees--winners and losers alike--responsible for filing campaign-finance reports 60 days before the general election. Noncandidate political committees, however, would not be required to file that report.

The essence of this proposal was recommended by the LRC Committee on Election Laws Review to the 1994 General Assembly. As introduced in Senate Bill 1564, the schedule applied to all candidates. It passed the Senate only after being amended to apply only to statewide nonjudicial candidates. Returned to its original form in House committee, the bill was defeated on the House floor, the idea was resurrected in another bill and passed the House. The Senate and House versions of the bills were never reconciled.

In the form of Proposal IV, the new schedule applies to the General Assembly as well as to statewide nonjudicial candidates.

Proposal IV would make the change effective for reports filed on or after January 1, 1996.

**1994 Campaign Reporting Schedule (CURRENT LAW)**

- Jan. 13-Feb. 17**      **Organizational Report**  
-- Due of all candidates & political committees
- April 22**            **Preprimary Report**  
-- Due of all candidates & political committees
- June 2**              **First Postprimary Report**  
-- Due only of candidates defeated in first primary
- June 30**            **Second Postprimary Report**  
-- Due only of candidates defeated in second primary
- October 28**        **Pre-Election Report**  
-- Due of all candidates & political committees
- Jan.27, 1995**      **Annual Report**  
-- Due of all candidates & political committees

**1996 Campaign Reporting Schedule (IF PROPOSAL IS ENACTED)**

- Jan. 11-Feb. 15**    **Organizational Report**  
-- Due of all candidates & political committees
- April 29**            **Preprimary Report**  
-- Due of all candidates & political committees
- June 6**              **First Postprimary Report**  
-- Due only of candidates for judicial and nonstatewide, non-General Assembly offices who were defeated in first primary
- July 4**               **Second Postprimary Report**  
-- Due only of candidates for judicial and nonstatewide, non-General Assembly offices defeated in second primary
- September 6**      **Postprimary Report**  
-- Due of all candidates for statewide nonjudicial offices and for General Assembly, including those who were defeated in primaries
- October 26**        **Pre-Election Report**  
-- Due of all candidates & political committees
- Jan. 31, 1997**     **Annual Report**  
-- Due of all candidates & political committees

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

95-RR-006

THIS IS A DRAFT 12-JAN-95 00:52:40

Short Title: Family Exemption Removed.

(Public)

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Sponsors: Senator/Representative

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO ELIMINATE THE EXEMPTION OF CONTRIBUTIONS BY FAMILY  
3 MEMBERS FROM THE LIMIT ON CONTRIBUTIONS TO A CANDIDATE.  
4 The General Assembly of North Carolina enacts:  
5 Section 1. G.S. 163-278.13 reads as rewritten:  
6 "§ 163-278.13. Limitation on contributions.  
7 (a) No individual or political committee shall contribute to  
8 any candidate or other political committee any money or make any  
9 other contribution in any election in excess of four thousand  
10 dollars (\$4,000) for that election.  
11 (b) No candidate or political committee shall accept or  
12 solicit any contribution from any individual or other political  
13 committee of any money or any other contribution in any election  
14 in excess of four thousand dollars (\$4,000) for that election.  
15 ~~(c) Notwithstanding the provisions of subsections (a) and (b)~~  
16 ~~of this section, it shall be lawful for a candidate or a~~  
17 ~~candidate's spouse, parents, brothers and sisters to make a~~  
18 ~~contribution to the candidate or to the candidate's treasurer of~~  
19 ~~any amount of money or to make any other contribution in any~~  
20 ~~election in excess of four thousand dollars (\$4,000) for that~~  
21 ~~election.~~  
22 (d) For the purposes of this section, the term "an election"  
23 means any primary, second primary, or general election in which  
24 the candidate or political committee may be involved, without

1 regard to whether the candidate is opposed or unopposed in the  
2 election.

3 (e) This section shall not apply to any State, district or  
4 county executive committee of any political party. For the  
5 purposes of this section only, the term "political party" means  
6 only those political parties officially recognized under G.S.  
7 163-96.

8 (e1) No referendum committee which received any contribution  
9 from a corporation, labor union, insurance company, business  
10 entity, or professional association may make any contribution to  
11 another referendum committee, to a candidate or to a political  
12 committee.

13 (f) Any individual, candidate, political committee, or  
14 referendum committee who violates the provisions of this section  
15 is guilty of a Class 2 misdemeanor."

16 Sec. 2. This act becomes effective January 1, 1996 and  
17 applies to all contributions made, solicited, or accepted on or  
18 after that date.

19

**SUMMARY OF LEGISLATIVE PROPOSAL V --**

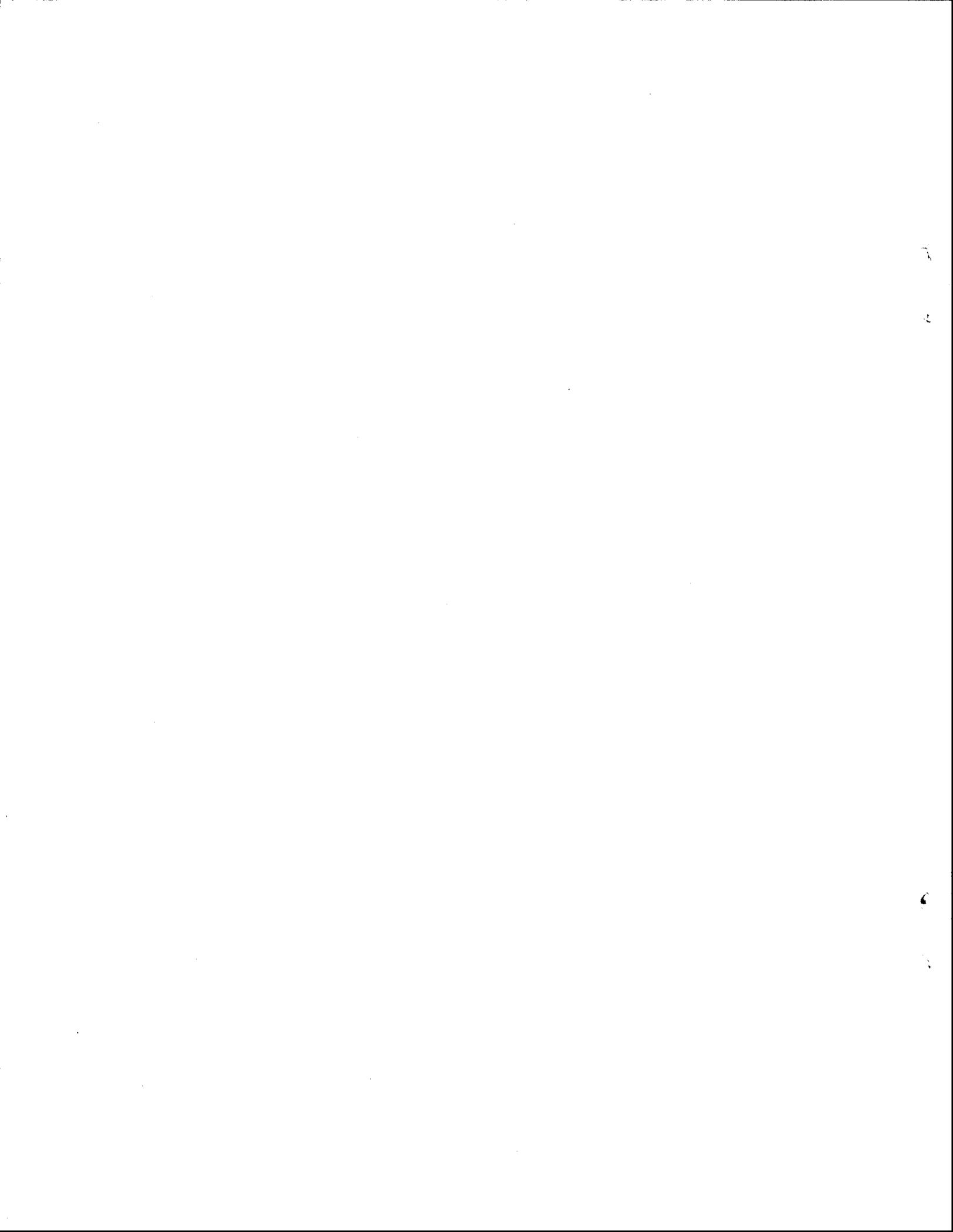
**REMOVING FAMILY EXEMPTION**

Proposal V would eliminate the exemption North Carolina now gives a candidate's family members from contribution limits when they are giving to the candidate.

Currently, North Carolina limits campaign contributions to \$4,000 per contributor per contributee per election. But if a family member, defined as a candidate's spouse, parents, brother, or sister, is giving to the candidate, there is no limit.

There is also no limit for gifts by the candidate to his own campaign. The U.S. Supreme Court has said that the candidate himself has a right under the First Amendment to spend without limit on his own campaign. But the court has not given such protection to contributions by family members. Indeed, about half the states treat subject family contributions to the same limits as contributions by others.

The proposal would go into effect January 1, 1996.





1 the candidate or political committee may be involved, without  
2 regard to whether the candidate is opposed or unopposed in the  
3 election.

4 (e) This section shall not apply to any contribution to any  
5 State, district or county executive committee of any political  
6 party. The limitation in this section on contributions from  
7 political party executive committees to a candidate or political  
8 committee shall apply collectively to all executive committees of  
9 the same political party within the State. For the purposes of  
10 this section only, the term "political party" means only those  
11 political parties officially recognized under G.S. 163-96.  
12 Contributions by political party executive committees under G.S.  
13 163-278.42 are subject to the limitations of this section.

14 (e1) No referendum committee which received any contribution  
15 from a corporation, labor union, insurance company, business  
16 entity, or professional association may make any contribution to  
17 another referendum committee, to a candidate or to a political  
18 committee.

19 (f) Any individual, candidate, political committee, or  
20 referendum committee who violates the provisions of this section  
21 is guilty of a Class 2 misdemeanor."

22 Sec. 2. This act becomes effective January 1, 1996 and  
23 applies to all contributions made, accepted, or solicited on or  
24 after that date.

SUMMARY OF LEGISLATIVE PROPOSAL VI --

REMOVAL OF PARTY-GIFTS EXEMPTION

Proposal VI would eliminate the exemption from contribution limits for gifts by a political party executive committee.

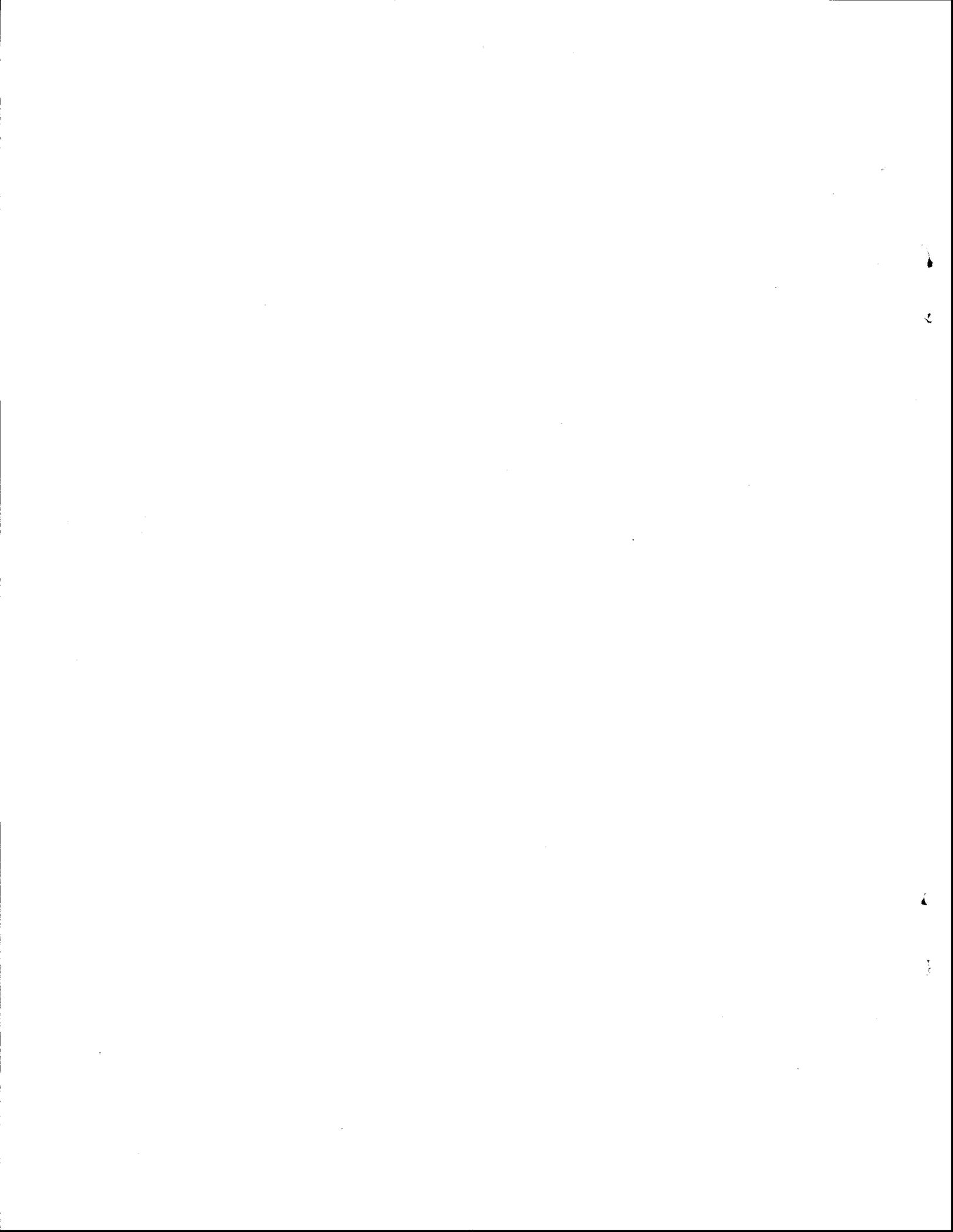
Current North Carolina law exempts political party executive committees entirely from the \$4,000 contribution limitation. That applies to party executive committees at the State, district, or county level. Those committees may receive an unlimited amount and give an unlimited amount.

Proposal VI would leave undisturbed the exemption on contributions to party executive committees, but it would eliminate the exemption from the limit on contributions by a party executive committee. A party committee could take in contributions without limit. But it could give only up to the \$4,000 per election to a candidate or political committee.

Proposal VI would make clear that the multi-level executive committees of the same party could not stack their limit-amounts to the same candidate, each level giving another \$4,000. The limit would apply collectively to all executive committees of the same party in the State.

The proposal also specifies that contributions by the party from the Political Parties Financing Fund are subject to the \$4,000 limit. That Fund is public money designated by taxpayers on the \$1 checkoff.

The proposal would make the change effective for contributions received on or after January 1, 1996.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

95-RR-008

THIS IS A DRAFT 12-JAN-95 00:47:18

Short Title: 2d Primary Gift Increment.

(Public)

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Sponsors: Senator/Representative

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO ELIMINATE THE EXTRA CONTRIBUTION-LIMIT PERIOD FOR THE  
3 SECOND PRIMARY FOR CANDIDATES WHO ARE NOT ON THE BALLOT IN A  
4 SECOND PRIMARY.  
5 The General Assembly of North Carolina enacts:  
6           Section 1. G.S. 163-278.13 reads as rewritten:  
7 "§ 163-278.13. Limitation on contributions.  
8   (a) No individual or political committee shall contribute to  
9 any candidate or other political committee any money or make any  
10 other contribution in any election in excess of four thousand  
11 dollars (\$4,000) for that election.  
12   (b) No candidate or political committee shall accept or  
13 solicit any contribution from any individual or other political  
14 committee of any money or any other contribution in any election  
15 in excess of four thousand dollars (\$4,000) for that election.  
16   (c) Notwithstanding the provisions of subsections (a) and (b)  
17 of this section, it shall be lawful for a candidate or a  
18 candidate's spouse, parents, brothers and sisters to make a  
19 contribution to the candidate or to the candidate's treasurer of  
20 any amount of money or to make any other contribution in any  
21 election in excess of four thousand dollars (\$4,000) for that  
22 election.  
23   (d) For the purposes of this section, the term "an election"  
24 means any primary, second primary, or general election in which

1 the candidate or political committee may be involved, without  
2 regard to whether the candidate is opposed or unopposed in the  
3 ~~election.~~ election, except that where a candidate is not on the  
4 ballot in a second primary, that second primary is not "an  
5 election" with respect to that candidate.

6 (e) This section shall not apply to any State, district or  
7 county executive committee of any political party. For the  
8 purposes of this section only, the term "political party" means  
9 only those political parties officially recognized under G.S.  
10 163-96.

11 (e1) No referendum committee which received any contribution  
12 from a corporation, labor union, insurance company, business  
13 entity, or professional association may make any contribution to  
14 another referendum committee, to a candidate or to a political  
15 committee.

16 (f) Any individual, candidate, political committee, or  
17 referendum committee who violates the provisions of this section  
18 is guilty of a Class 2 misdemeanor."

19 Sec. 2. This act becomes effective January 1, 1996 and  
20 applies to all primaries conducted on and after that date and to  
21 all contributions made, accepted, or solicited on or after that  
22 date.

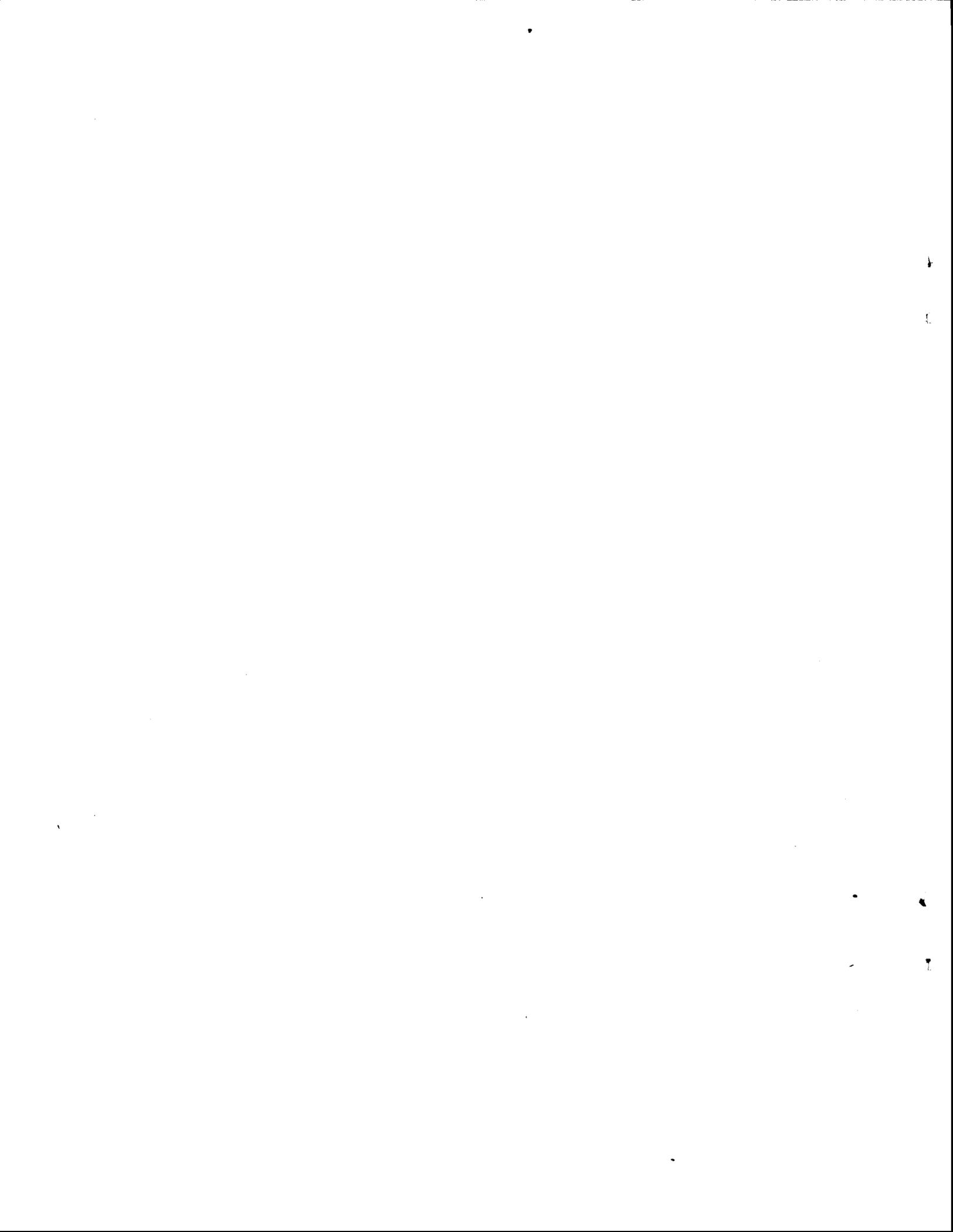
**SUMMARY OF LEGISLATIVE PROPOSAL VII --**  
**REMOVAL OF EXTRA LIMIT FOR 2d PRIMARY**

Proposal VII would eliminate the opportunity for a candidate to raise an additional \$4,000 from a contributor for the second primary if the candidate is not on the ballot for a second primary.

When North Carolina law says contributions are limited to \$4,000 per "election," it means a donor may give a donee that amount for a first primary, again for a second primary, and again for the general election. This is true even if the candidate is not on the ballot for the second primary. A candidate can, in effect, raise \$12,000 from the same source in an election year by raising the maximum \$4,000 for each election.

Proposal VII would allow a candidate the extra limit period for a second primary only if that candidate was on the ballot in a second primary.

The proposal would make the change effective for primaries and contributions on or after January 1, 1996.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

95-RR-011

D

95-RR-011  
THIS IS A DRAFT 23-JAN-95 21:45:37

Short Title: Election Laws Review.

(Public)

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Sponsors:

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH THE ELECTION LAWS REVIEW COMMISSION.  
3 The General Assembly of North Carolina enacts:  
4           Section 1. (a) There is created an Election Laws Review  
5 Commission to be composed of 18 members appointed as follows:  
6           (1) The President Pro Tempore of the Senate shall appoint six  
7           members;  
8           (2) The Speaker of the House of Representatives shall appoint six  
9           members; and  
10          (3) The Governor shall appoint six members.  
11 As used in this Part and unless otherwise clearly indicated, "Commission" shall  
12 refer to the Election Laws Review Commission.  
13           (b) The President Pro Tempore of the Senate and the Speaker of  
14 the House of Representatives shall each designate a cochair of the Commission  
15 from their appointees. Either cochair may call the first meeting of the  
16 Commission.  
17           (c) Members shall serve until the termination of the Commission  
18 or, in case of a State legislator member, until the member either does not file  
19 for reelection to the General Assembly or is not reelected, whichever occurs  
20 first. Vacancies shall be filled in the same manner as the original  
21 appointments were made.  
22          Sec. 2. (a) The Election Laws Review Commission shall study  
23 thoroughly:

- 1 (1) The election laws, policies, and procedures of the State,  
2 specifically to include those relating to campaign finance  
3 regulation, the appropriateness of their sanctions, and the  
4 appropriate handling and disposition of campaign  
5 contributions;
- 6 (2) The administration of those laws, policies, and procedures at  
7 the State and local levels and the responsibilities of those  
8 administrating these laws; and
- 9 (3) Federal and State case rulings impinging on these laws,  
10 policies, and practices.
- 11 (b) The Commission shall recommend changes to the law that will:
- 12 (1) Clarify the present law by removing inconsistencies and  
13 outdated provisions, including those of dubious  
14 constitutionality;
- 15 (2) Incorporate in the law any desirable uncodified procedures,  
16 practices, and rulings of a general nature that have been  
17 implemented by the State Board of Elections and its Executive  
18 Secretary-Director;
- 19 (3) Conform the law to State and federal case law and to any  
20 requirements of federal statutory law and regulation;
- 21 (4) Ensure the efficient and effective administration of elections in  
22 this State;
- 23 (5) Continue the impartial, professional administration of  
24 elections, which the citizens of the State expect and demand;  
25 and
- 26 (6) Recodify the election laws, as necessary, to produce a  
27 comprehensive current statement of law and practice of  
28 elections in North Carolina.

29 Sec. 3. With the prior approval of the Legislative Services  
30 Commission, the Legislative Administrative Officer shall assign professional  
31 and clerical staff to assist in the work of the Election Laws Review  
32 Commission. Clerical staff shall be furnished to the Commission through the  
33 Offices of the House of Representatives and Senate Supervisors of Clerks. The  
34 expenses of employment of the clerical staff shall be borne by the Commission.  
35 With the prior approval of the Legislative Services Commission, the Election  
36 Laws Review Commission may hold its meetings in the State Legislative  
37 Building or the Legislative Office Building.

38 Sec. 4. The Commission shall submit a final written report of its  
39 findings and recommendations on or before the convening of the 1997 General  
40 Assembly. The Commission may submit a written report to the 1996 Session  
41 of the 1995 General Assembly All reports shall be filed with the President Pro  
42 Tempore of the Senate and the Speaker of the House of Representatives, the  
43 Principal Clerks of the Senate and the House of Representatives, and the

1 Legislative Librarian. Upon filing its final report, the Commission shall  
2 terminate.

3           Sec. 5. Members of the Commission shall be paid per diem,  
4 subsistence, and travel allowances as follows:

5           (1) Commission members who are also members of the General  
6 Assembly, at the rate established in G.S. 120-3.1;

7           (2) Commission members who are officials or employees of the  
8 State or local government agencies, at the rate established in  
9 G.S. 138-6;

10           (3) All other Commission members, at the rate established in  
11 G.S. 138-5.

12           Sec. 6. The State Board of Elections and its Executive Secretary-  
13 Director, local boards of election, and all other State departments and  
14 agencies, and local governments and their subdivisions shall cooperate with the  
15 Commission and, upon request, shall furnish to the Commission and its staff  
16 any information in their possession or available to them.

17           Sec. 7. From the appropriations to the General Assembly for  
18 studies, the Legislative Services Commission may allocate funds to conduct the  
19 work of the Election Laws Review Commission.

20           Sec. 8. This act is effective upon ratification.

**SUMMARY OF LEGISLATIVE PROPOSAL VIII --**

**RE-ESTABLISHMENT OF COMMISSION**

Proposal VIII would re-establish the Election Laws Review Commission using the current plan of appointment of membership and the current mandate to study campaign finance law and other election-law revision.

The current Commission terminates upon the filing of the final report on or before the convening of the 1995 General Assembly.

Proposal VIII would re-establish the Commission and have it report to the 1996 and 1997 Sessions of the General Assembly.

The new Commission, like the old, would have 18 members, with equal thirds appointed by the Speaker of the House, the President Pro Tem of the Senate, and the Governor. The Speaker and the President Pro Tem would each choose one of the two Co-Chairs.

